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Chair: Mr. Gunnarsson ..... (Iceland)

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The meeting was called to order at 10.05 a.m.

Agenda item 72: Promotion and protection of human rights (A/72/40) and (A/C.3/72/9) (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/72/127, A/72/128, A/72/131, A/72/132, A/72/133, A/72/135, A/72/137, A/72/139, A/72/140, A/72/153, A/72/155, A/72/162, A/72/163, A/72/164, A/72/165, A/72/170, A/72/171, A/72/172, A/72/173, A/72/187, A/72/188, A/72/201, A/72/202, A/72/219, A/72/230, A/72/256, A/72/260, A/72/277, A/72/280, A/72/284, A/72/289, A/72/290, A/72/316, A/72/335, A/72/350, A/72/351, A/72/365, A/72/370, A/72/381, A/72/495, A/72/496, A/72/502, A/72/518, A/72/523 and A/72/540)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/72/279, A/72/281, A/72/322, A/72/322/Corr.1, A/72/382, A/72/394, A/72/493, A/72/498, A/72/556, A/72/580-S/2017/798, A/72/581-S/2017/799, A/72/582-S/2017/800, A/72/583-S/2017/816, A/72/584-S/2017/817, A/72/585-S/2017/818, A/72/586-S/2017/819, A/72/587-S/2017/852 and A/72/588-S/2017/873; A/C.3/72/11, A/C.3/72/14 and A/C.3/72/16)

1. **Mr. Ojea Quintana** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), introducing his report (A/72/394), said that, since his appointment, he had focused on two key aims: the pursuit of accountability for human rights violations, and engagement with the Democratic People's Republic of Korea to promote positive changes on the ground. Over the past year, he had conducted field missions to Cambodia, the Holy See, Japan and the Republic of Korea, which had helped him to collect, evaluate and cross-check data on the situation in the Democratic People's Republic of Korea and put together a picture of recent developments. The Democratic People's Republic of Korea continued to reject his mandate and had refused his requests for a country visit.

2. The period under review had been marked by critical developments in the political and security situation. The international community had witnessed a heightening of tensions in the Korean peninsula and the wider region that was unprecedented in recent history. Between January and September 2017, the Democratic People's Republic of Korea had fired 19 ballistic missiles, which had resulted in the adoption of three Security Council resolutions, the most recent being in September 2017. Those resolutions had strengthened sanctions against the Democratic People's Republic of Korea and had been followed by unilateral measures from a number of countries. However, the pursuit of denuclearization should not be at the risk of a nuclear war. Furthermore, history had shown that sanctions could have a devastating impact on the civilian population. He was concerned that the sanctions could adversely affect vital economic sectors, and as a result, the enjoyment of human rights. A comprehensive assessment of the sanctions regime was needed to ensure that it did not have an unintended negative impact on human rights and impose a collective punishment on the ordinary citizens of the Democratic People's Republic of Korea.

3. Although the policy of isolation pursued by the international community would not help improve the human rights situation, the Government of the Democratic People's Republic of Korea bore the ultimate responsibility for protecting and promoting human rights in the country. Regrettably, there were still patterns of grave violations. For instance, the separation of Korean families continued to take new forms and affect new categories of people. A recent wave of forced repatriations of citizens of the Democratic People's Republic of Korea by China, which might constitute refoulement, had further scattered families and increased the number of undocumented children born to Chinese fathers and Korean mothers. Strained political relations with the Republic of Korea continued to hamper the reunion of families that had been separated since the Korean War.

4. In December 2016, the Democratic People's Republic of Korea had ratified the Convention on the Rights of Persons with Disabilities, and in May 2017 the Special Rapporteur on the rights of persons with disabilities had carried out an official visit to the country. As part of his incremental, multi-stakeholder strategy, he would continue to seek a broadening of engagement with international human rights mechanisms. The United Nations system should continue to offer the Government all necessary guidance and technical advice for implementing the recommendations made under the universal periodic review and other human rights mechanisms. Many non-governmental organizations had been working with the authorities to design and implement technical assistance projects. He was convinced that it would be possible to broaden the dialogue with the Democratic People's Republic of Korea to ensure the enjoyment of all rights and freedoms and also to promote

accountability for human rights violations, which would serve to deter future violations and reinforce the pursuit of justice for all victims. Implementing the recommendations of the group of independent experts on accountability had begun and he would continue to follow developments closely, in particular with regard to appointing an international criminal law expert and setting up an information repository on serious human rights violations.

5. Lastly, and in the spirit of the resolution establishing his mandate, the approach to progress on human rights should be constructive. Therefore, human rights must remain at the centre of engagement with the Government of the Democratic People's Republic of Korea, even in the midst of a geopolitical crisis. Although his message of constructive engagement might not be welcomed in the current climate of isolation and pressure, it was his duty to remind the international community that behind the Government of the Democratic People's Republic of Korea were ordinary citizens, who needed human rights protection more than ever.

6. While the Democratic People's Republic of Korea might reject his mandate, his offer of help still stood. The Government of that country was responsible for protecting and promoting the human rights of its people, and he was entirely committed to his mandate to contribute to the fulfilment of that obligation.

7. **Mr. Bayley Angeleri** (Bolivarian Republic of Venezuela), speaking on behalf of the Movement of Non-Aligned Countries, said that at their seventeenth summit meeting, the heads of State and Government of the Movement had reaffirmed that human rights issues should be addressed in a fair and equal manner, through a constructive, non-confrontational, non-selective and non-politicized approach based on dialogue with objectivity and respect for national sovereignty and territorial integrity. They had also stressed that the Human Rights Council was the United Nations body responsible for the consideration of human rights situations in all countries on the basis of cooperation and constructive dialogue in the context of the universal periodic review process. They had expressed their deep concern at the continued and proliferating practice of the selective adoption of country-specific resolutions in the Third Committee, which was a means of exploiting human rights for political purposes and, as such, breached the principles of universality, impartiality, objectivity and non-selectivity.

8. **Mr. García Moritán** (Argentina) asked how the international community could follow up effectively on the conclusions and recommendations set out in the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea (A/HRC/25/63) and the report of the group of independent experts on accountability (A/HRC/34/66/Add.1), in line with General Assembly resolution 71/202 and Human Rights Council resolution 34/24, respectively.

9. **Mr. Koehler** (Germany) said that Germany firmly supported the human rights mechanisms working on the human rights situation in the Democratic People's Republic of Korea and the related question of accountability, especially the Seoul office of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The human rights situation remained deplorable, and the Government of the Democratic People's Republic of Korea should engage meaningfully with the international community on improving the living conditions of its people and take concrete steps to put an immediate end to torture and other flagrant human rights violations. He wondered what the United Nations, its Member States and non-governmental organizations could do to raise awareness of the employment conditions of guest workers from the Democratic People's Republic of Korea. While other issues relating to the Democratic People's Republic of Korea were taking the spotlight, it was important to recall the day-to-day consequences of the regime's behaviour towards its own population. Tens of thousands of people were incarcerated in prison camps, often without a trial. The use of torture was widespread and systematic, while whole generations had grown up in a climate of fear with a totalitarian Government, leaving no space for individual freedoms.

10. **Mr. Forax** (Observer for the European Union) said that it was encouraging that the Democratic People's Republic of Korea had allowed the Special Rapporteur on the rights of persons with disabilities to visit in 2017. Yet visits from other mandate holders continued to be blocked, which hampered efforts to gather information and provide the world with a more accurate picture of the human rights situation and the individuals and institutions responsible for violations.

11. He would be interested in hearing more about the opportunities for redress and remedy for certain violations, as mentioned in the report, and about the practical measures that should be taken to promote accountability, perhaps with a focus on independent evidence-gathering.

12. **Mr. Hahn** Choonghee (Republic of Korea) said that his delegation remained concerned by the ongoing pattern of serious human rights violations in the Democratic People's Republic of Korea. In particular, members of separated Korean families had been denied

any possibility of seeing their loved ones for over 70 years, during which time many had passed away. North Korea should respond to their desperate pleas to resume family reunions. His country also remained concerned about the safety of South Koreans and other foreign nationals detained in the Democratic People's Republic of Korea; they should be released immediately, provided with medical care and consular assistance, and allowed to communicate with their families.

13. He welcomed the cooperation of the Democratic People's Republic of Korea with several human rights treaty bodies and the visit of the Special Rapporteur on the rights of persons with disabilities and hoped that such cooperation would contribute to protecting the human rights of the North Korean people and implementing the recommendations of the commission of inquiry. The Republic of Korea would continue to work with the international community to ensure that universal human rights values and international norms were observed throughout the Korean peninsula. The Special Rapporteur had mentioned in his report that the Democratic People's Republic of Korea had an opportunity to ensure immediate redress and remedy for certain grave violations through its recent interaction with human rights bodies. He would appreciate information on the concrete options that were available.

14. **Mr. Ustinov** (Russian Federation) said that, although a constructive approach based on cooperation and dialogue might not be to everyone's liking in the context of the Democratic People's Republic of Korea, it was the only way to achieve results. Discussing the human rights situations in individual countries within the Third Committee did not have a positive impact in terms of improving those situations or promoting human rights around the world and led only to confrontation. The human rights situations in individual countries should be examined in the context of the universal periodic review, which provided opportunities for constructive dialogue based on mutual respect.

15. **Mr. Hoshino** (Japan) said that, despite the gravity of the human rights situation, the Government of the Democratic People's Republic of Korea continued to prioritize nuclear and missile development over the welfare of its people. On the basis of the recommendations made by the group of independent experts on accountability, the Special Rapporteur could consider ways and means to hold individuals accountable for human rights violations. Japan looked forward to hearing his vision for strengthening the capacity of the OHCHR office in Seoul, as well as concrete ways to make the best use of that office. The Special Rapporteur could also investigate further the working conditions of overseas workers, including by identifying concrete and specific examples of cases that amounted to forced labour. Finally, he once again drew attention to the abduction from Japanese soil of a number of Japanese citizens, including a 13-year-old girl, by the Democratic People's Republic of Korea.

16. **Mr. Ariturk** (United States of America) said that, regrettably, the Democratic People's Republic of Korea refused to engage constructively with the Special Rapporteur or to respect the basic rights and fundamental freedoms of its people. Patterns of grave violations continued to be observed in the Democratic People's Republic of Korea, and the situation of political prisoners and other detainees was of particular concern, as was the treatment of individuals forcibly returned from China. His delegation appreciated the report's highlighting of the issue of abductions and extrajudicial detention of nationals of the United States and other countries. The United States remained alarmed that detainees were reportedly subjected to practices that clearly contravened international human rights, and was especially concerned about the treatment of women. The gravity and scale of the human rights violations demanded continuing action in the Third Committee and the General Assembly. The report recommended that the United Nations country team should continue to work with the authorities to implement the recommendations made in the context of the universal periodic review. He wondered what steps the United Nations had taken to ensure that those efforts included access to the most vulnerable populations, including political prisoners and abductees.

17. **Ms. Wagner** (Switzerland) said that the recurrence of grave and systematic human rights violations in the Democratic People's Republic of Korea was a matter of deep concern, in particular the situation of detainees and citizens living abroad who had been forcibly repatriated. Her country welcomed the Special Rapporteur's approach and underlined the importance of dialogue with the authorities and prosecution of the perpetrators of violations, which could include referral to the International Criminal Court. Her delegation also welcomed the engagement of the Democratic People's Republic of Korea with United Nations human rights mechanisms. However, it deplored the persistent rejection of the Special Rapporteur's mandate and called on the Government of the Democratic People's Republic of Korea to cooperate with the Special Rapporteur and all other United Nations mechanisms.

18. She wondered whether the Special Rapporteur could provide more information regarding his recommendation that the international community should support confidence and peace-building initiatives with the Democratic People's Republic of

Korea. She would also like to know what approach he would take to establish capacity-building programmes in the Democratic People's Republic of Korea in order to implement the recommendations made during the universal periodic review process and by other United Nations human rights mechanisms.

19. **Mr. Kelly** (Ireland) said that his Government condemned the persistent, systematic and widespread violations of human rights in the Democratic People's Republic of Korea. There was a pressing need to ensure accountability for such violations, which included alleged crimes against humanity, and Ireland was firmly of the view that the Security Council should refer the situation to the International Criminal Court.

20. It was important to establish channels of dialogue with the Government of the Democratic People's Republic of Korea. Notwithstanding the recent and worrying deterioration in the security situation, Ireland had repeatedly emphasized the useful role that dialogue could play on the Korean peninsula.

21. His Government welcomed the Special Rapporteur's recommendation that the United Nations should conduct a full assessment of the impact of the Security Council sanctions regime. He wondered how the international community could provide adequate support to ensure that sanctions did not have a negative impact on the livelihoods of ordinary people.

22. **Mr. Torbergsen** (Norway) said that his delegation was gravely concerned by the ongoing, systematic and widespread human rights violations in the Democratic People's Republic of Korea. Noting the ratification of the Convention on the Rights of Persons with Disabilities and the visit of the Special Rapporteur on the rights of persons with disabilities, he said that Norway supported the call on the authorities of the Democratic People's Republic of Korea to ratify core human rights treaties and to extend invitations to other mandate holders. Norway was also concerned by the possibility that the Security Council's sanctions might have a detrimental impact on sectors that were vital for the enjoyment of human rights and the humanitarian needs of sectors of the population. He would like to ask the Special Rapporteur to elaborate on how that might be assessed.

23. **Mr. Castillo Santana** (Cuba) said that his delegation was not in favour of country-specific mandates that were not supported by the country concerned, as they were selective, discriminatory and politically motivated. The emphasis on punishment and sanctions did not help to improve the human rights situation; on the contrary, sanctions undermined the human rights of the population of the Democratic People's Republic of Korea. Cuba would not support punitive sanctions. His country was in favour of exploring all possible avenues for deepening a constructive and respectful dialogue with the Democratic People's Republic of Korea.

24. **Ms. Jones** (United Kingdom) said that the human rights situation in North Korea was horrifying, and the many factual reports of systematic human rights violations could not be ignored. During the reporting period, the impact had extended beyond the country's borders with tragic effect. Kim Jong Un could have chosen to build a society based on respect for human dignity and human rights, but he had instead given greater priority to weapons than to human life. The United Kingdom repeated its call for the North Korean regime to abandon irreversibly its illegal nuclear and ballistic weapons programmes and end the systemic human rights violations.

25. The report repeatedly noted the lack of access to independent information on the human rights situation. The Democratic People's Republic of Korea must allow the Special Rapporteur immediate and unhindered access to the country to assess the human rights situation there. She would like to know how the Government of the Democratic People's Republic of Korea could be held accountable and how access to independent information could be gained.

26. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that the practice of considering country-specific situations in the Third Committee was counterproductive. Exploitation of that platform for political ends was in breach of the Charter of the United Nations and contrary to the principles of universality, non-selectivity and objectivity in addressing human rights issues. Moreover, it undermined cooperation and dialogue as the essential principles for promoting and protecting all universally recognized human rights. His delegation was also seriously concerned about the impact of sanctions on the rights of civilians in the Democratic People's Republic of Korea. The universal periodic review was the appropriate mechanism for reviewing the human rights situation in all Member States on an equal basis without discrimination and with full participation by the Governments concerned.

27. **Ms. Rasheed** (Maldives) said that her Government remained deeply concerned by the gross and systemic human rights violations in the Democratic People's Republic of Korea. While that country's engagement with the Special Rapporteur on the rights of persons with disabilities was positive, much remained to be done to ensure that the people could exercise their fundamental human rights. The Maldives therefore

urged the Government of the Democratic People's Republic of Korea to cooperate with the United Nations and its mechanisms, including the Special Rapporteur, as a first step.

28. The Government of the Democratic People's Republic of Korea should utilize its resources for the economic and social advancement of its people instead of stockpiling weapons of mass destruction. The Maldives was gravely concerned by the recent nuclear and ballistic missile tests conducted by the Democratic People's Republic of Korea in clear violation of Security Council resolutions. Her Government encouraged all Member States to assist the Special Rapporteur in fulfilling his mandate and to work together to find an enduring solution to the prolonged suffering of the people of the Democratic People's Republic of Korea.

29. **Ms. Morton** (Australia) said that Australia remained deeply concerned about reports of gross and systematic human rights violations by the North Korean regime. Human rights must remain at the centre of engagement, and it was extremely worrying that North Korea continued to give priority to nuclear weapon and ballistic missile development rather than to the welfare of its people. North Korea must be held to account for human rights violations. It was important to move forward on implementing the recommendations of the commission of inquiry on human rights in the Democratic People's Republic of Korea, and she welcomed the Secretary-General's advocacy and support in that regard. Abuses must be recorded systematically in order to build on the reporting of the commission of inquiry.

30. In addition, Australia remained deeply concerned that North Koreans were reportedly working abroad under conditions that amounted to forced labour. Security Council resolution 2375 (2017) prohibited Member States from issuing any new work authorizations for North Korean labour. In cases where there had been no significant improvement or the situation continued to deteriorate, accountability and referral to the international courts became more pressing. She wondered what options were available for moving towards consideration by the International Criminal Court.

31. **Mr. Qassem Agha** (Syrian Arab Republic) said that his delegation rejected the selective exploitation of human rights issues as a way of interfering in the internal affairs of States on humanitarian pretexts. The Special Rapporteur had overstepped his mandate and violated the sovereignty of the Democratic People's Republic of Korea. He wondered why the Special Rapporteur had not discussed the adverse effects of sanctions on the people of that country. Non-politicized and direct dialogue among Member States was the only approach that would yield positive results.

32. **Mr. Dvořák** (Czechia) said that his Government fully supported the Secretary-General's call for the Democratic People's Republic of Korea to engage constructively with the United Nations system. He would like to know which initiatives should be explored further to promote cooperation between the Government of the Democratic People's Republic of Korea, the OHCHR office in Seoul and the Special Rapporteur.

33. **Ms. Bellout** (Algeria) said that her delegation remained concerned about the increasing number of country-specific reports being presented in the Third Committee. The universal periodic review was still the most appropriate forum for considering human rights. The establishment of the Human Rights Council should have put an end to politicization and selectivity in the examination of human rights and should have made it possible to denounce any violations committed.

34. **Mr. Thinkeomeuangneua** (Lao People's Democratic Republic), reiterating that a country-specific human rights resolution would not help to address human rights issues, said that his delegation firmly believed that the universal periodic review was the only appropriate mechanism for discussing and examining the human rights situation in any country and should serve as the basis for constructive dialogue. He called on the international community to engage positively with the Democratic People's Republic of Korea and encouraged the latter to continue its cooperation with the human rights mechanism.

35. **Mr. Ojea Quintana** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) said that the dialogue at the present meeting could only be partial, since no representatives of the Democratic People's Republic of Korea were present. That situation was a reflection of the challenges he faced as Special Rapporteur in terms of gaining access to up-to-date and credible information on the current human rights situation.

36. Accountability was a key element of the mandate he had received from the commission of inquiry of 2014 and from his predecessor, and it encompassed both criminal and other forms of accountability. It had been recommended in the past that the Security Council should refer the case of the Democratic People's Republic of Korea to the International Criminal Court. However, the Security Council had not responded to that recommendation, although it had made the fullest possible use of the sanctions regime. No progress had

been made regarding the recommendation, and discussions should therefore continue. OHCHR was gathering information on human rights violations, which must be completely independent, impartial and credible. Any information presented to a criminal court would be challenged by the defendants, and must therefore be prepared with great care.

37. He had held meetings over the past week with various authorities in New York on the subject of the adverse impact of Security Council sanctions. He recommended that the Panel of Experts on the Democratic People's Republic of Korea, responsible for verifying the implementation of sanctions, should extend its technical capacity to evaluate any possible negative impact. While the Security Council was legitimately concerned that the Democratic People's Republic of Korea was using its financial resources to develop nuclear and missile technology, his mandate was focused on other issues.

38. The detention of foreign nationals in the Democratic People's Republic of Korea was a matter of considerable importance. He had been in talks with delegations that had diplomatic representation in Pyongyang, and had requested their assistance in enabling those detainees to exercise their right to contact family members and consular officials. However, much remained to be done, and he called upon the delegations to facilitate those efforts.

39. The issue of workers sent overseas by the Democratic People's Republic of Korea had been included in his previous report and presented many challenges. Receiving countries were responsible for ensuring that the work did not constitute forced labour. Within the Democratic People's Republic of Korea, the possibility to leave and work abroad was often seen in a positive light.

40. Other approaches to those issues could be considered. It was difficult to gain access to North Asia and obtain information on the subject of human trafficking. Perhaps a regional forum on human trafficking that included the Democratic People's Republic of Korea could be established. A non-confrontational approach of that kind might make it possible to conduct investigations and formulate recommendations with the support of organizations such as the United Nations, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross.

41. Some countries called for constructive dialogue, and others for upholding human rights. If delegations were proposing that the universal periodic review was the right mechanism to deal with human rights issues, then they should also indicate how to ensure that the recommendations made during the review process were implemented, since there was no evidence to suggest that it was happening. He hoped to be able to report in 2018 that further progress had been made in relation to the engagement of the Government of the Democratic People's Republic of Korea with various human rights mechanisms.

42. **Ms. Keetharuth** (Special Rapporteur on the situation of human rights in Eritrea), introducing her report (A/HRC/35/39), said she had been informed that the Eritrean authorities carried out extrajudicial executions of unarmed Eritreans attempting to cross the border. That practice was carried out with impunity, and no explanations or investigations had been provided. While the Eritrean authorities had vehemently disputed that a shoot-to-kill policy existed at the border, documented cases showed that several people, including children, had been killed while attempting to cross.

43. She had also received reports of arrests and detentions in the capital city of Asmara. Detainees were not told why they had been arrested and were not taken before a court of law to determine the legality of their detention. They had no contact with the outside world, including lawyers and family members. No information was provided about specific cases, and they were given no indication of whether they would be released. One Eritrean freedom fighter had been arrested in 2003 and held for 14 years without being charged and without access to a lawyer or family members. His family had received no information about him through official channels during that time, but had managed to find out informally where he was being held. In summer 2017, prison authorities had visited his family members at home to inform them of his sudden death in detention and to return his body to them.

44. Reports indicated that the Government of Eritrea regularly interfered in the internal affairs of officially recognized religions and did not provide exemption from military service for conscientious objectors. Arrest and detention of individuals for their religious beliefs, including members of both recognized and non-recognized religious denominations, were commonly reported. In August 2017, a mother of four had died in detention in a desert camp after having been arrested three months earlier during raids targeting Evangelical Christians.

45. According to a recent update by the International Organization for Migration, the organization was relocating some 100 persons per day. Most refugees were young people, and 46 per cent of the total were between 18 and 24 years of age. Many of them reported

walking for days to reach their destination. While various countries had adopted measures to reduce the number of Eritrean asylum seekers and refugees, such efforts would only be a temporary respite. No barrier was insurmountable for people fleeing human rights violations.

46. Violations of the right to property were ongoing. The Greek community in Asmara, for example, had been asked to evacuate its building complex, which included the premises of the Honorary Consulate of Greece as well as the offices of the Greek community. That infringement of the right to property in Eritrea should be redressed.

47. Specific areas needed to be addressed in order to achieve progress on human rights in Eritrea. The Government must establish institutions to strengthen the rule of law, and it must conduct a transparent and public assessment of the justice system and the independence of judges, lawyers and prosecutors. Eritrea must demonstrate its respect for human rights through accurate data and must combat institutionalized impunity.

48. **Mr. Giorgio** (Eritrea) said that the mandate of the Special Rapporteur had been defined by countries hostile to Eritrea that were aiming to isolate and demonize the country. Eritrea had always opposed country-specific mandates and the use of the Human Rights Council to further political objectives. Furthermore, the report of the commission of inquiry on human rights in Eritrea (A/HRC/32/47) mentioned by the Special Rapporteur had not been endorsed by the Human Rights Council.

49. Eritrea was determined to safeguard its independence and chart its own development path, yet its achievements had been ignored and its shortcomings exaggerated. The Special Rapporteur had recommended unwarranted measures and had employed methodology that lacked the minimum level of rigour and professionalism. Nevertheless, the Government of Eritrea continued to engage in bilateral and multilateral dialogue on human rights and on pressing regional issues of peace and development and would always welcome constructive engagement.

50. Eritrea was a State party to several core international and regional human rights instruments and had undergone its first and second universal periodic review processes. To expedite implementation of the resulting recommendations, Eritrea had established a universal periodic review coordinating body with members from Government ministries and civil society organizations. In 2016, Eritrea had concluded the Strategic Partnership Cooperation Framework with the United Nations for the period from 2017 to 2021 and had allocated budgetary resources for implementation of the human rights commitments made therein. Those commitments were broad in scope and covered the rights set out in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

51. The rule of law was promoted through campaigns to raise awareness of the right to due process and new national codes that would be translated into all the languages used in Eritrea. The Government had introduced salary increments for youth on the basis of educational merit, and skills development programmes had been expanded. Eritrea would boost productivity and investment by mobilizing its human and material resources with a view to implementing the Sustainable Development Goals Given the resources needed for such a project, Eritrea invited all Member States to call on Ethiopia to end its occupation of Eritrean territory and its sanctions on the country. Another important pillar of the new development agenda was a political process involving discussions on the country's future system of governance and a new political road map.

52. The mandate of the Special Rapporteur continued mainly at the behest of the delegations of certain States and Ethiopia. Not only was Ethiopia a country with an egregious human rights record, but it continued to occupy Eritrean territory in violation of international law and to advocate the tightening of sanctions on Eritrea.

53. **Mr.** Youssouf Aden **Moussa** (Djibouti) said that the work of the Special Rapporteur was part of the follow-up and implementation of the recommendations of the commission of inquiry on human rights in Eritrea, but the report of the commission had not been presented to the General Assembly at its seventy-first session as originally planned. Since 1991, the Eritrean authorities had, without pity or remorse, destroyed the lives of those that they were supposed to protect and had failed to comply with their obligations under regional and international human rights instruments. The Government of Djibouti was deeply concerned about the 13 Djiboutian prisoners of war who had been held by Eritrea in inhuman and degrading conditions since 2008, and he called for their immediate release.

54. **Mr. Ariturk** (United States of America) said that, although it was encouraging that Eritrea had been engaging with the international community, serious concerns remained. The United States called on the Government of Eritrea to comply with its constitution, develop an independent judiciary, improve detention conditions and release arbitrarily detained individuals.

The United States was also concerned that Eritreans continued to be detained for their religious beliefs, and that they were subject to compulsory national service for periods of indefinite duration.

55. **Mr. Kent** (United Kingdom) said that the Government of Eritrea should set clearly defined time limits and fair financial compensation for Eritreans engaged in national service. The Government should implement the constitution, respect religious beliefs and release those who had been arbitrarily detained. In order to stem the tide of Eritrean refugees, action must be taken to tackle human rights violations and the overall lack of economic opportunity. The United Kingdom welcomed the continued cooperation between Eritrea and OHCHR. He asked the Special Rapporteur how the international community could support the United Nations in its work on human rights in Eritrea.

56. **Mr. Yusuf** (Somalia) said that his Government strongly condemned the violations of human rights committed by the Government of Eritrea. Somalia called on Eritrea to take all appropriate measures to implement the recommendations of the commission of inquiry and further urged it to release the 13 Djiboutian prisoners of war detained incommunicado in Eritrean prisons.

57. **Mr. Forax** (Observer for the European Union) said that Eritrea must implement the 1997 constitution, address the issue of national service and undertake immediate and substantial legal and institutional reforms. The European Union welcomed the willingness of the Eritrean Government to grant country access to bilateral and international delegations, but was concerned that the Special Rapporteur and other international and regional human rights mechanisms were repeatedly denied access. He asked the Special Rapporteur to share her plans for the last term of her mandate, and asked how the European Union could contribute to improved cooperation between the Special Rapporteur and the Government of Eritrea.

58. *Ms. Kaszás (Hungary), Vice-Chair, took the Chair.*

59. **Mr. Castillo Santana** (Cuba) said that his delegation reiterated its opposition to country-specific mandates, which all targeted developing countries. Cuba called for cooperation and dialogue and the involvement of African regional and subregional organizations in dealing with issues of concern. The search for effective solutions should include the Eritrean authorities and should take their concerns into account.

60. **Ms. Sandoval** (Nicaragua) said that, regrettably, the Third Committee continued to bend to the will of certain Member States, appointing special rapporteurs on specific developing countries in violation of United Nations principles. Her delegation was very concerned that the report failed to recognize the efforts Eritrea had made for the welfare of its people. The Human Rights Council was the United Nations body mandated to examine human rights matters in every country, through the universal periodic review process.

61. **Mr. Taranda** (Belarus) said that the mandate on Eritrea was counterproductive. The United Nations should continue efforts to establish genuine dialogue with the Government of Eritrea and provide technical support and assistance to the country, including for its efforts to implement the recommendations made in the context of the universal periodic review. The activities of special procedures mandate holders were ineffective and biased. Country-specific mandate holders did not have access to the relevant countries and carried out their work remotely on the basis of secondary data from unreliable sources.

62. **Mr. Torbergsen** (Norway) said that, as a long-standing friend of Eritrea and its people, his Government was strongly committed to helping the Government of Eritrea to improve the human rights situation. Norway had welcomed the recent cooperation between Eritrea and the United Nations regarding the administration of justice and international and regional human rights norms. He asked the Special Rapporteur whether the Government of Eritrea had shown renewed interest in cooperation as part of the follow-up to the universal periodic review. The report of the Special Rapporteur had referred to an event at which the participants had explored the role that a regional mechanism might play, and his delegation was interested in hearing about the outcome of those discussions.

63. **Mr. Kelly** (Ireland) said that his Government called on Eritrea to cooperate fully with the Special Rapporteur and other human rights mechanisms by allowing access to the country and, specifically, to places of detention. Cooperation and engagement with the international community was essential, and the access granted to visiting international delegations and representatives of OHCHR was a positive step. Noting that the Special Rapporteur had mentioned that the universal periodic review recommendations provided a framework for addressing the human rights situation in Eritrea, he asked her to share her views on the role of capacity-building cooperation in that regard.

64. **Ms. Přikrylová** (Czechia) said that, without genuine elections and political pluralism, it was impossible to promote democracy and human rights at the national level. Eritrea had not had national elections in 20 years, and there was only one political party. She

asked the Special Rapporteur how the international community could help Eritrea transition to a pluralistic State with democratically-elected representatives, and whether dialogue with the Eritrean Government was possible in that regard.

65. **Ms. Lendemann** (Switzerland) said that her Government called on Eritrea to cooperate with all human rights mechanisms, including the special procedures, and to continue its engagement to ensure implementation of the recommendations made in the context of the universal periodic review. Switzerland also encouraged Eritrea to strengthen its cooperation with OHCHR and to consider establishing an office of OHCHR in Eritrea. She asked the Special Rapporteur to share her priorities for her mandate and asked how the international community could support her.

66. **Ms. Lu** Xiaoxiao (China) said that the international community should acknowledge the progress made by Eritrea in the promotion and protection of human rights and view the human rights situation in a fair and objective manner. China hoped that countries of the Horn of Africa would bear in mind the overriding need for peace and stability in the region and the fundamental interests of their peoples. They should solve their differences through dialogue and work together towards development.

67. **Ms. Ndayishimiye** (Burundi) said that her delegation reiterated its principled position against country-specific mandates and commissions of inquiry, as they were counterproductive. The universal periodic review was a more constructive mechanism and more likely to lead to tangible results in Eritrea.

68. **Mr. Seth** (India) said that the primary responsibility for the protection and promotion of human rights lay with States. The United Nations should base its relations with Member States on dialogue, not on the imposition of country-specific mandates. Such mandates were counterproductive and led to the politicization of human rights, which violated the objectives of the Charter of the United Nations.

69. **Ms. Rodríguez de Febres Cordero** (Bolivarian Republic of Venezuela) restated her Government's disapproval of the establishment of special procedures without the consent of the Governments concerned and said that the use of human rights for political ends constituted a violation of the principles of the Charter of the United Nations. The progress made on the human rights situation in Eritrea by the Human Rights Council should be deepened, and the universal periodic review was the appropriate mechanism for cooperative examination of human rights issues through constructive and respectful dialogue.

70. **Mr. Waleed** (Pakistan) said that the cooperation of Eritrea with the universal periodic review, treaty bodies and OHCHR reflected the country's commitment to dialogue, and its cooperation with multilateral and bilateral partners on the issue of consolidating human rights showed its commitment to democratic processes. There was a need to promote greater coherence between the work of the Committee and the Human Rights Council and avoid unnecessary duplication, and in that regard, the universal periodic review was the appropriate mechanism for reviewing human rights issues at the international level.

71. *Mr. Gunnarson (Iceland) resumed the Chair.*

72. **Mr. Moussa** (Egypt) said that, at their summit in Sharm el-Sheikh, the heads of State of the Non-Aligned Movement had emphasized that the Human Rights Council should be responsible for considering human rights situations in all countries and had expressed concern over the adoption of country-specific resolutions by the Committee. At the summit held in Venezuela in 2016, the heads of State of the Non-Aligned Movement had noted that such resolutions exploited human rights for political purposes and thus violated the principles of impartiality and non-selectivity. The universal periodic review was the main intergovernmental mechanism for the review of human rights issues.

73. **Mr. Chekeche** (Zimbabwe) said that his delegation had consistently opposed the submission of country-specific reports or resolutions and believed that the Human Rights Council, through the universal periodic review mechanism, was the appropriate forum for dealing with any human rights concerns regarding any Member State. Eritrea had already gone through two cycles of the universal periodic review and had accepted 92 recommendations. Both parties should continue their cooperation on human rights.

74. **Mr. Rahman** (Bangladesh) said that gross violations of human rights should be dealt with forthrightly, following due process of law and with accountability and transparency. To that end, Bangladesh had taken note of the various measures taken by Eritrea to protect and promote the human rights of its citizens.

75. **Ms. Khalvandi** (Islamic Republic of Iran) said that her delegation reiterated its principled position regarding the report presented by the Special Rapporteur. The Committee's consideration of country-specific situations violated the principles of universality, non-selectivity and objectivity, and undermined cooperation and dialogue among Governments. She reiterated her delegation's conviction

that the universal periodic review was the proper venue for reviewing the human rights situations of all Member States equally.

76. **Mr. Ustinov** (Russian Federation) said that consideration of the situation in Eritrea by the United Nations human rights bodies was politicized and did not help to improve the human rights situation in the country. The universal periodic review was the best platform for examining the human rights situations in individual countries in a constructive spirit with the full involvement of the countries concerned. Equal and constructive dialogue based on mutual respect should form the basis of all aspects of the work of the United Nations human rights bodies, rather than the demonization of States and Governments that were disliked by some.

77. **Ms. Keetharuth** (Special Rapporteur on the situation of human rights in Eritrea), responding to questions and comments by delegations, said that engagement by Eritrea in bilateral cooperation with other States had been a positive sign. However, human rights issues should not be swept under the rug at such meetings, but rather should be included within the discussions and follow-up. All States with bilateral relations with Eritrea should bear in mind the centrality of human rights issues.

78. The visit by a representative of OHCHR to Eritrea had also been a sign of progress, but the role of the Office should not be limited to capacity-building. Rather, it should also have a monitoring mandate and be allowed to verify information on human rights issues in the country itself. The subject of religious rights in Eritrea remained a priority for her mandate, and much remained to be done, but Eritrea could move in a positive direction by releasing Father Antonios, the Patriarch of the Orthodox Church, who had been under house arrest for over ten years.

79. The Special Rapporteur turned to the subject of her plans for the final year of her mandate, which would end in 2018. She would ensure that there were more capacity-building programmes for survivors of human rights violations so that they were informed about the various support mechanisms that existed. She also hoped for a more constructive dialogue with Eritrea in the remaining months of the mandate.

80. While a number of delegations had expressed a preference for using the universal periodic review as a human rights mechanism for Eritrea and other countries, she did not think that the various mechanisms were mutually exclusive. More mechanisms were better than fewer, and in that regard, she was glad that the representative of Eritrea had mentioned his country's engagement with the treaty bodies.

81. She wished to highlight the issue of detention. The true number of individuals who had been arbitrarily detained was unknown. Eritrea should look into that matter and should furthermore ensure that the requisite institutional mechanisms were in place so that individuals could have access to justice and benefit from checks and balances. Political participation was a human right.

82. Regarding the report of the commission of inquiry, it was unfortunate that the representative of Eritrea had said that the report had not been endorsed by the Human Rights Council. If that were true, she would not have a mandate to work on its recommendations, but the report had in fact been endorsed.

83. **Mr. Idris** (Eritrea) said that the Human Rights Council had adopted its resolution 32/24 in 2016, in which it had taken note of the report of the commission of inquiry. His delegation noted with regret that Djibouti had attacked Eritrea in many United Nations bodies at the behest of other States. His delegation also reiterated that Eritrea had released all prisoners of war. More importantly, Djibouti had no moral authority to discuss human rights issues in other States given its own record in that regard, which included curtailment of human rights with impunity and the killing of 13 civilians in Balbala during a religious gathering. Human rights standards needed to be raised everywhere, and Eritrea had always been open to engaging in constructive dialogue.

84. **Mr.** Youssouf Aden **Moussa** (Djibouti) said that his country had never been the subject of a human rights commission of inquiry and could not be compared to Eritrea, where systematic violations of human rights, including summary executions, had been occurring since 1991. The Eritrean authorities tortured and terrorized their own people with full impunity. Those with the courage to flee were executed in cold blood in accordance with the shoot-to-kill policy, and their families were subject to reprisals.

85. **Mr. Haraszti** (Special Rapporteur on the situation of human rights in Belarus), introducing his report (A/72/493), said that, after a period described by some partners of Belarus as a détente in relation to critical voices, Belarus had returned in 2017 to mass and violent oppression of those who dared to criticize public policies. The reasons for the cyclical nature of violent crackdowns in Belarus lay in a governance system that was directed entirely by the executive branch.

86. In 2016, Belarus had adopted a so-called human rights action plan, which consisted of a list of 100 pledges relating mostly to enhancing or expanding the services that were already constraining certain areas of civic life. The authorities had nevertheless disregarded the extensive list of recommendations made during the universal periodic review process and by the treaty bodies. The only good news of 2017 was the long overdue registration of the "Tell the Truth" movement, albeit as a social rather than a political movement. The submission by Belarus of its report to the Human Rights Committee after a 16-year delay also served as a measure of the speed of its compliance with treaty obligations.

87. In his report, he had focused on the impact of the concentration of powers in Belarus on the state of human rights. In a country where the Parliament was ineffective and the judiciary was an extended hand of the executive branch, there was no space for guarantees for human rights. With the geopolitical storms in the post-Soviet space, notably in neighbouring Ukraine, the claim that civic activism was a source of danger for the nation had been reinforced by the portrayal in the State media of demands for pluralism and power-sharing as conducive to civil war and loss of State independence.

88. Since the severe crackdown on protestors in 2017, the President had stated that his controversial decree would be redrafted, demonstrating that he could change the legal framework and practices whenever he wished. Paradoxically, the situation of human rights in Belarus might enjoy an initial improvement, thanks to the extremely centralized governance. In that event, a long period of joint development of a human rights framework involving civil society and the political opposition would be needed. The Special Rapporteur reiterated his call for the authorities to engage with his mandate, even in an incremental way, and was ready to assist the Government in moving towards compliance with its United Nations obligations.

89. **Mr. Taranda** (Belarus) said that the work of the Special Rapporteur was the worst example of the harmful practice of the Human Rights Council. The lack of concrete results for Belarus and the enormous expenditure involved were clear illustrations of the flawed nature of the Council's country-specific mandates. Over his six years of work, the Special Rapporteur had not managed to acknowledge any positive changes in Belarus. Meanwhile, international organizations, including the United Nations and its human rights mechanisms, frequently recognized the improvements in the human rights situation in the country, and Belarus was rated highly in international reports and research. The reason for such a contradiction lay in the conflict of interest caused by the Special Rapporteur's constant incentive to portray the situation in the country as threatening in order to maintain his mandate.

90. Belarus was committed to fulfilling its international human rights obligations and was cooperating with a wide range of human rights mechanisms to develop its national human rights policy. It had adopted a national human rights action plan and was up to date with its reporting to human rights treaty bodies. It was fully engaged in an open dialogue with various international partners, including the European Union, the Council of Europe and OHCHR. The best thing that the Special Rapporteur could do for Belarus would be to cease his selective monitoring of the situation in the country and resign before the end of his term.

91. **Ms. Wagner** (Switzerland) said that she welcomed the fact that the Special Rapporteur had been able to visit Minsk to participate in the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE), but regretted the lack of cooperation of the Government of Belarus with the Special Rapporteur's mandate. She noted the Special Rapporteur's conclusion that the positive changes towards better respect for human rights in Belarus might be only temporary and marginal owing to the current governance system.

92. **Mr. Forax** (Observer for the European Union) said that, despite some positive developments in Belarus, the human rights situation remained a cause of concern. The European Union urged the Belarusian authorities to allow more space for civil society and to eliminate all obstacles to the exercise of a free and independent media. It condemned the application of the death penalty in the country and urged the authorities to introduce a moratorium. He asked how the Government of Belarus could be encouraged to implement the repeated recommendations of various international bodies and to make use of the existing formal aspects of democracy.

93. **Mr. Idris** (Eritrea) said that the human rights of all countries should be assessed in a fair and equal manner, with respect for national sovereignty, and the universal periodic review remained the best platform to enhance cooperation and partnership in the promotion and protection of human rights. Eritrea welcomed the initiatives taken by the Government of Belarus to further improve the human rights of its citizens, including the implementation of the universal periodic review and its growing engagement with OHCHR. The international community should recognize those developments and support the Government in that endeavour.

94. **Ms. Jakubonė** (Lithuania) said that the scale of repression against peaceful protestors in Belarus was a cause of deep concern, and the systematic violations of fundamental freedoms and restrictions on the activities of non-governmental organizations and the opposition clearly demonstrated that the regime was not ready for democratic reforms. She asked how the international community could assist civil society in Belarus in the promotion of human rights.

95. **Mr. Qassem Agha** (Syrian Arab Republic) said that if he were the Secretary-General and received such a report, he would fire the Special Rapporteur because it was politicized and constituted blatant interference in the internal affairs of Belarus. The Special Rapporteur had overstepped his mandate and had insulted the President of Belarus. The Special Rapporteur had no right to impugn the duly elected president of a sovereign State, and should respect democracy in Belarus.

96. **Mr. Shadiev** (Uzbekistan) said that the Special Rapporteur's mandate did not enjoy the unequivocal support of the members of the Human Rights Council. It was unacceptable to replace the universal periodic review with country-specific resolutions that were based on selectivity and undermined the principles of universality and objectivity. The resolution on Belarus was counterproductive and would not help to ensure the continued exercise of human rights. In view of the consistent cooperation of Belarus with the Human Rights Council and other United Nations bodies, that State should not be subject to monitoring or further biased actions on the part of the Council and its special procedures.

97. **Ms. Duda-Plonka** (Poland) said that her country welcomed the ratification by Belarus of the Convention on the Rights of Persons with Disabilities, but was concerned by the human rights situation in the country. The Government of Belarus should stop all ongoing retaliatory procedures initiated in the wake of social protest movements. Poland hoped that the Government would implement all the Special Rapporteur's recommendations. After his unofficial visit to Belarus, the Special Rapporteur had said that, although the Government still did not recognize his mandate, it was encouraging that he had been allowed to attend an international meeting. She asked whether there had been other signals from Minsk that could give hope for future cooperation.

98. **Ms. Miller** (United Kingdom) asked about the Special Rapporteur's impressions of the situation in Belarus when he had visited the country at the invitation of the OSCE Parliamentary Assembly. The United Kingdom reiterated its call for the Belarusian authorities to engage constructively with the Special Rapporteur. While noting the recent increase in engagement on human rights by the Belarusian authorities, it remained concerned by the human rights situation in the country and the fact that Belarus was the only European country that still applied the death penalty. The United Kingdom was working to support the more permissive environment that was developing in Belarus.

99. **Mr.** Omer Dahab Fadl **Mohamed** (Sudan) commended the Belarusian legislation covering various areas of the promotion and protection of human rights, specifically the human rights action plan adopted in 2016 and the standing invitation extended to a number of mandate holders. His country did not agree with the inclusion of country-specific issues in the agenda of the Committee.

100. **Mr. Koehler** (Germany) asked about the potential of the national human rights action plan to improve the situation in Belarus. While recognizing that Belarus had not opposed the participation of the Special Rapporteur as a human rights expert in the OSCE Parliamentary Assembly, Germany called on Belarus to cooperate with him in his capacity as Special Rapporteur. The Government should fully implement the national action plan and allow the registration of other non-governmental organizations and political parties. His country remained concerned by the continuing restrictions on civil society activities and the fact that Belarus was the last remaining country in Europe to administer capital punishment.

101. **Ms. Ndayishimiye** (Burundi) said that her country continued to be concerned by country-specific reports. Dialogue, cooperation and the universal periodic review were the only ways to ensure the promotion and protection of human rights in Belarus and other countries. Burundi was also troubled by the tendency to use the Committee for political aims. It would be better to support the improvements in Belarus.

102. **Mr. Ali** (Pakistan) said that the promotion of human rights was a shared responsibility that could be achieved only through a constructive approach of cooperation and inclusion, rather than politicization and selectivity. The cooperation of the Government of Belarus with the universal periodic review mechanism, treaty bodies and OHCHR reflected its commitment to engage constructively and positively with international mechanisms. The efforts of Belarus to establish a legal and regulatory framework consistent with the relevant international human rights norms was commendable.

103. **Mr. Muhamedjanov** (Tajikistan) said that his delegation noted the commitment of Belarus to fulfilling its international obligations in the promotion and

protection of human rights, including by cooperating constructively with the relevant United Nations treaty bodies and improving its national legislation by taking into account the experience and recommendations of the international community. Solutions to human rights issues should be based on cooperation and dialogue, and should comply with the international legal framework.

104. **Mr. Castillo Santana** (Cuba) said that the Special Rapporteur's mandate was clearly politically motivated and was contrary to the spirit of cooperation and dialogue. The information provided by the Government of Belarus and its cooperation with OHCHR and human rights mechanisms had not been taken into account. The universal periodic review was the only appropriate mechanism for analysing the human rights situations in all countries without selectivity. His country would continue to oppose politicized practices that only polluted the analysis of such an important issue as human rights.

105. **Mr. Ustinov** (Russian Federation) said that the resolution that had established the mandate of the Special Rapporteur was politicized, but the work of the Special Rapporteur had reached an even greater level of politicization. The Special Rapporteur on the situation of human rights in Belarus was a clear example of how special procedures of the Human Rights Council should not function. The Special Rapporteur's report and statement, which had been delivered in a condescending and, at times, mocking manner, lacked basic respect for a sovereign State. Such work discredited the United Nations human rights system and had a negative impact. It was clear that the human rights special procedures mandate holders should be held responsible by the Council for their actions. The mandate of the Special Rapporteur on the situation of human rights in Belarus had no place among the special procedures of the Council.

106. **Mr. Zhemeney** (Kazakhstan) said that the existing human rights challenges in Belarus could be addressed more effectively through the country's engagement with treaty bodies, OHCHR and human rights mechanisms. The latest positive developments in the country, in particular the adoption of the first ever national action plan for the implementation of the recommendations made in the context of the universal periodic review and by the treaty bodies and the ratification of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, had significantly strengthened such cooperation. The existing country-specific mandate on Belarus had clearly proved to be ineffective.

107. **Mr. Mikayilli** (Azerbaijan) welcomed the significant progress made by Belarus on a wide range of human rights issues and its engagement with the human rights machinery. The universal periodic review had proved to be a successful intergovernmental mechanism for reviewing the human rights issues in all countries in an equal manner. In that regard, Azerbaijan noted with appreciation the adoption by Belarus of the national human rights action plan on the implementation of recommendations made in the context of the universal periodic review and accepted by Belarus.

108. **Mr. Torbergsen** (Norway) said that his country fully endorsed the conclusions of the report of the Special Rapporteur. He asked what was needed to facilitate the Special Rapporteur's access to Belarus and to organize the meetings necessary to fulfil his mandate. Norway remained concerned about the human rights situation in Belarus and reiterated its call for an immediate moratorium on the death penalty as a first step towards its abolition. The Belarusian authorities should give the Special Rapporteur uninhibited access to relevant interlocutors in the country.

109. **Ms. Rodríguez de Febres Cordero** (Bolivarian Republic of Venezuela) restated her Government's disapproval of the application of special procedures without the consent of the Governments concerned and said that the use of human rights for political ends constituted a violation of the principles of the Charter of the United Nations. The progress made by Belarus and its cooperation with United Nations human rights mechanisms were widely recognized, while its successful participation in the universal periodic review illustrated its commitment to upholding human rights. Cooperation and dialogue were the appropriate means for effectively promoting and protecting human rights.

110. **Mr. Ri** Song Chol (Democratic People's Republic of Korea) said that the freedom to choose and maintain a political, social and economic system that met the needs of the people was the right of sovereign States, including Belarus, and must be fully respected in the consideration of human rights issues. His country was firmly against the politicized attempt to infringe upon national sovereignty under the guise of human rights and with hostile intentions. All politically motivated, confrontational country-specific procedures based on politicization, selectivity, double standards and interference should be terminated once and for all.

111. **Mr. Seth** (India) said that Belarus had demonstrated its willingness to comply with its human rights obligations, was a party to most human rights instruments and regularly submitted national periodic reports to the treaty bodies. The establishment of

country-specific mandates without the approval of the countries concerned was not conducive to dialogue or the resolution of issues, and the use of human rights for political aims constituted a violation of the principles and objectives of the Charter of the United Nations. The universal periodic review was the most appropriate mechanism for promoting human rights.

112. **Mr. Araliyev** (Turkmenistan) said that the situation in Belarus did not require urgent attention from or monitoring by the Human Rights Council. Belarus was a party to most international human rights instruments and regularly submitted periodic reports for consideration by treaty bodies. Turkmenistan welcomed the continued efforts of Belarus in its constructive cooperation with United Nations human rights treaty bodies and agencies, the European Union and the Council of Europe.

113. **Mr. Kelly** (Ireland) said that his delegation shared the Special Rapporteur's concerns regarding the arrests and arbitrary detention of peaceful protestors in February and March 2017 and agreed that civil society actors and human rights defenders had a crucial role to play in ensuring respect for human rights, fundamental freedoms and democratic values. It also shared the concerns about the extremely negative impact of restrictions on the freedoms of expression, the media, association and assembly in Belarus. He asked what key steps needed to be taken by the Government of Belarus to ensure that civil society organizations could operate freely in the country. Ireland supported the Special Rapporteur's call for a moratorium on the death penalty, to be followed by its abolition.

114. **Mr. Thinkeomeuangneua** (Lao People's Democratic Republic) said that country-specific resolutions did not help to address human rights issues, and the universal periodic review was the only appropriate forum for discussion and review of the human rights situation in any country on an equal basis. His delegation called on the international community to continue to engage in positive dialogue with Belarus, and encouraged Belarus to continue to cooperate with human rights mechanisms to fulfil its international obligations.

115. **Ms. Lu** Xiaoxiao (China) said that her country welcomed the progress made by Belarus in promoting and protecting human rights and commended its development of national action plans on human rights, social and economic development and gender equality, its active participation in the review processes of human rights treaty bodies and its ratification of the Convention on the Rights of Persons with Disabilities.

116. Her country always advocated constructive dialogue and cooperation as a way for countries to address their differences in the field of human rights. The Human Rights Council should view a country's human rights situation in a comprehensive, fair and objective manner. China opposed the politicization of human rights issues, the public exertion of pressure and confrontational approaches. As an important part of a country's economic and social development, human rights should be advanced on the basis of national circumstances and the wish of the people.

117. **Ms. Khalvandi** (Islamic Republic of Iran) said that her country reiterated its serious concern at the continued abuse of the platform of the Committee for the consideration of reports emanating from politically motivated mandates. It welcomed the positive human rights developments in Belarus. Human rights mechanisms should devote their resources, time and energy to protecting human rights and to countering the most serious violations and violators. The case against Belarus did not warrant a Special Rapporteur. The universal periodic review mechanism remained the appropriate venue for the consideration of human rights situations on an equal basis with the full participation of the countries concerned, without prejudice or discrimination.

118. **Mr. Přikrylová** (Czechia) asked whether the Special Rapporteur had had an opportunity to talk informally with the Belarusian authorities about human rights during his recent visit to the country and what steps could be taken by the international community to foster the cooperation of States with independent human rights mechanisms.

119. **Mr. Ariturk** (United States of America) said that the human rights situation in Belarus remained a cause of concern, and it was unfortunate that the Government of Belarus continued to refuse to cooperate with or grant country access to the Special Rapporteur. While the registration of the "Tell the Truth" movement was a positive development, the United States was concerned by the blocking of the registration of additional groups and the recent charges filed against the leaders of the radio and electronics trade union. Disappointingly, there had been no movement on the promised electoral law reform in advance of the municipal elections to be held in February 2018. As a result, those elections would not be free and fair. He asked what steps the international community should take to improve access for United Nations human rights mechanisms in Belarus.

120. **Mr. Taranda** (Belarus), speaking on a point of order, stressed that activities carried out by the Special Rapporteur in his official capacity were the only matters

under consideration, and the questions posed relating to the visit made in his individual capacity did not concern the mandate of the Special Rapporteur.

121. **Mr. Haraszti** (Special Rapporteur on the situation of human rights in Belarus) said that, during his visit to Belarus, the Ministry of Foreign Affairs had stated that the Special Rapporteur was a guest of the OSCE Parliamentary Assembly, not of the Government. He had been able to speak to civil society activists and attend a horrifying show trial against a participant in the suppressed demonstrations, but no official meeting had taken place. He had been able to speak to one Deputy Minister at a round table organized by the OSCE Parliamentary Assembly. He nevertheless stressed his appreciation for the tolerance of his presence in the country.

122. The national human rights action plan had entirely disregarded the universal periodic review and the treaty body recommendations relating to civil and political rights, civil society engagement and the necessary decriminalization of explicitly unpermitted public acts of association and assembly and media activities. There had also been no relaxation of the infamous permission-based system of public life, which had hindered civil society in Belarus for the past two decades. With regard to the death penalty, only further study of the question was envisaged, which was clearly not enough.

123. In terms of basic steps to help civil society in its work in a very unrewarding atmosphere, it was most important to resist the very unfortunate trend, not only in Belarus but also internationally, of shaming, blocking and even criminalizing support to civil society from other countries and civil society.

124. His criticism did not target the President as a person, but rather as the head of the executive branch. The President had two kinds of jurisdiction, one granted by the Constitution and one by Parliament, giving him absolute power by decree, which was not conducive to good human rights management.

The meeting rose at 1 p.m.

United Nations A/C.3/72/SR.33

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Third Committee

Summary record of the 33rd meeting
Held at Headquarters, New York, on Thursday, 26 October 2017, at 3 p.m.

Chair: Mr. Gunnarsson ..... (Iceland)

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The meeting was called to order at 3.05 p.m.

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(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/72/127, A/72/128, A/72/131, A/72/132, A/72/133, A/72/135, A/72/137, A/72/139, A/72/140, A/72/153, A/72/155, A/72/162, A/72/163, A/72/164, A/72/165, A/72/170, A/72/171, A/72/172, A/72/173, A/72/187, A/72/188, A/72/201, A/72/202, A/72/219, A/72/230, A/72/256, A/72/260, A/72/277, A/72/280, A/72/284, A/72/289, A/72/290, A/72/316, A/72/335, A/72/350, A/72/351, A/72/365, A/72/370, A/72/381, A/72/495, A/72/496, A/72/502, A/72/518, A/72/523 and A/72/540)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/72/279, A/72/281, A/72/322, A/72/322/Corr.1, A/72/382, A/72/394, A/72/493, A/72/498 and A/72/556; A/C.3/72/2-S/2017/798, A/C.3/72/3-S/2017/799, A/C.3/72/4-S/2017/800, A/C.3/72/5-S/2017/816, A/C.3/72/6-S/2017/817, A/C.3/72/7-S/2017/818, A/C.3/72/8-S/2017/819, A/C.3/72/10-S/2017/852, A/C.3/72/11, A/C.3/72/13-S/2017/873, A/C.3/72/14 and A/C.3/72/16)

1. **Ms. Callamard** (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing her report on the unlawful death of refugees and migrants (A/72/335), said that her mandate could make an important contribution to in global efforts to prevent and address violations of the right to life. Remarking on the low response rate to her written communications to States, she urged States to cooperate and respond to her queries. Country visits had also contributed to the preparation of the report. She thanked Italy and the European Union for their cooperation during her visits.

2. The report highlighted a human rights and humanitarian crisis characterized by mass casualties, impunity for perpetrators and high tolerance for its fatalities, for which no reliable comprehensive data was available despite many initiatives, including the Missing Migrants Project of the International Organization for Migration. The record of deaths underestimated the loss of life by thousands.

3. There was an inherent conflict between Governments' human rights protection obligations and control-of-entry policies that implicitly or explicitly tolerated a high risk of migrant deaths. Such policies shared the three troubling features of deterrence, extraterritoriality and militarization. Tolerance of such risk was an extremely grave development. Justifying mass casualties in the name of policy or politics brought humankind to the edge of a very deep abyss.

4. She called on all Member States and intergovernmental officials to give the recommendations contained in her report due consideration and to implement them comprehensively. Initiatives to improve global governance of migration were important opportunities to ensure that the right to life of refugees and migrants was respected and protected.

5. **Mr. Bessedik** (Algeria), noting that his was a transit country, said that the well-known deeper causes of migration and the mass movement of people needed to be addressed with greater cooperation and focus. Only then could problems linked to migration, such as people smuggling, terrorism, drug trafficking and human trafficking, be resolved. While migration could not be stopped, it could and should be better organized.

6. **Mr. Locsin, Jr.** (Philippines), calling the unlawful death of refugees and migrants the worst crime of the 21st century said that ten million Filipinos were working in every corner of the world, and the subject of the report was a matter of great concern to his Government. His country had welcomed refugees throughout its history, including White Russians fleeing Communism in Russia and later in China, Jews escaping Europe and Iranians fleeing after the fall of the Shah. It had on two occasions offered unconditional asylum to Rohingya.

7. While his Government fully supported the role of the special procedures mechanisms of the Human Rights Council in addressing the plight of vulnerable groups, it was concerned that some mandate holders were not complying with the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council and the Manual of Operations of the Special Procedures of the Human Rights Council. The Human Rights Council should heed the two joint statements that had been issued by States at the recent session of the Human Rights Council and develop accountability mechanisms for special rapporteurs and independent experts. Special rapporteurs should apply methodological rigour and objectivity, respect national sovereignty and avoid self-righteousness. His delegation wished to know what measures the Special Rapporteur had taken to ensure that she stayed within the bounds of her mandate and remained objective in her work, and how States could assist special procedures mandate-holders in that regard.

8. **Mr. Kent** (United Kingdom) said that States were responsible for meeting their human rights obligations

in respect of all people, regardless of their migration status. His Government took a comprehensive approach to making global migration safer and regular by providing humanitarian assistance along migration routes and resettlement assistance. It was fostering political stability and long-term sustainable development in fragile States and taking action against smugglers and traffickers who exploited vulnerable individuals.

9. His Government's efforts upstream were not an attempt at externalization, but rather an effort to protect migrants before they could be exploited. Deterring migrants from making dangerous journeys protected them, while challenging criminal networks. Effective border management was vital for the responsible reception of asylum-seekers. The European Union's Operation Sophia, mentioned in the report, was a good example of how humanitarian and security policies could exist side-by-side. The United Kingdom was firmly committed to making Sustainable Development Goal 10, target 7, a global reality and was working with the United Nations Global Compact processes to that end.

10. **Ms. Charrier** (France) said that extrajudicial, summary or arbitrary executions were the worst violations of human rights. States should step up their fight against such crimes and ensure that perpetrators were held accountable for their acts in a court of law. Deaths and disappearances of migrants and refugees implicating State and non-State actors were especially troubling. More needed to be done to combat impunity and to collect more accurate data on the number and circumstances of such cases.

11. She wished to know what measures States should take to improve the collection and sharing of data relating to the disappearance of migrants and refugees and whether the matter could be addressed in international agreements on refugees and migration. Her Government's response to the migration issue was fully in line with international human rights law and the international humanitarian law framework. She called on States and international organizations alike to address the tremendous loss of life among refugees and migrants as a matter of priority.

12. **Mr. Forax** (Observer for the European Union) said that the European Union remained committed to preventing and ending extrajudicial, summary or arbitrary executions in all circumstances and to ensuring respect for both international human rights law and international humanitarian law and accountability for violations of international law and the right to life. Reiterating the European Union's strong opposition to the death penalty, he called on States to take steps to abolish it and was interested to hear how the Special Rapporteur planned to influence that issue in her work.

13. The European Union would study the recommendations contained in the report as part of efforts to enhance its policies and response to address the deaths of migrants and refugees, the lack of thorough investigations and the role of State and non-State actors in migrant deaths. He asked the Special Rapporteur to explain what measures States should take to improve the collection and sharing of accurate data regarding the dead and the missing. It would be helpful to know what key measures were involved in taking a gender-sensitive approach to preventing arbitrary killings. He was also interested to know more about the Special Rapporteur's priorities and plans for country visits. The European Union called on States to fully cooperate with the Office of the Special Rapporteur, including her requests for visits.

14. **Ms. Westaway** (Australia) said that guidelines established as part of the global compact for migration and the global compact on refugees could help to make migration safe and to promote models for global cooperation on transnational crime. The global compacts should focus on the prevention of the arbitrary deprivation of life of refugees and migrants. Her country's border policy sent a clear message that smugglers could not exploit vulnerable people by selling them passage to Australia. The safety of those aboard intercepted boats was of paramount importance. Australia had robust arrangements in place to ensure that people intercepted at sea would not face a real risk of significant harm. Her country remained deeply concerned at the tragic loss of life among refugees and migrants at the hands of criminal networks and called for all persons presumed responsible for the deaths of refugees and migrants to be brought to justice.

15. **Mr. Laaksonen** (Finland), speaking also on behalf of Denmark, Iceland, Norway and Sweden, said that the lack of compliance by States with their obligations to prevent and investigate extrajudicial killings was of particular concern, as stressed in General Assembly resolution 69/182 on extrajudicial and summary executions, which had been introduced by the Nordic countries. States needed to address the frequent absence of thorough investigations and the widespread impunity, not only to provide remedies for the victims and their families but also to prevent continued violations. Migrants and refugees were at particular risk, as they were often reluctant to contact law enforcement authorities due to fear of deportation.

16. Welcoming the Special Rapporteur's recommendations, he asked which groups of migrants and refugees were at particular risk of extrajudicial killings, and what steps States could take to protect those individuals. He also wished to know how States could assist child migrants and refugees with regard to violence and extrajudicial killings perpetrated by non-State actors. The Nordic countries fully supported the independent work of the Special Rapporteur and called on all States to cooperate with her mandate and to accept her requests to visit.

17. **Ms. Callamard** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that when the right to life was not protected, human rights and society itself were undermined. While a discussion of the deeper causes and relevant recommendations fell outside the scope of her mandate, the reports of the Special Rapporteur on the human rights of migrants discussed those causes in depth and contained recommendations.

18. A panel discussion would be held the following day to discuss measures that could be taken to improve the collection and sharing of data on the deaths of migrants and refugees. Local stop-gap solutions existed, but they were not being turned into national policies owing to the lack of resources and political will. Sharing data would give closure to families of the deceased and make the way the deaths were being handled more humane.

19. To reduce deaths among migrants and refugees, States and intergovernmental organizations such as the International Criminal Police Organization (INTERPOL), the European Police Office (Europol) and the United Nations Office on Drugs and Crime (UNODC) should give priority to investigating cases of smuggling involving homicide. Police and prosecutors should not be deterred by the complexity of investigating such cases, despite the associated political and technical challenges and the close cooperation that was required.

20. Tying the effectiveness of their deterrence policies to the likelihood of death of refugees and migrants placed the moral leadership of States, indeed the entire international human rights system, in danger. While refugees and migrants had no one to protect them and were usually poor and fleeing violence, States that could prevent or respond to the violations were using policy justifications that put the lives of refugees and migrants at greater risk.

21. Recognizing the right of Governments to monitor their borders and control migration, she insisted that they could do so while still making it a priority to protect the right to life. She invited Member States to consult with her and move forward with implementing the practical recommendations contained in her report.

22. **Ms. Bhoola** (Special Rapporteur on contemporary forms of slavery, including its causes and consequences), introducing her report (A/72/139), said that during the interactive debate of the thirty-third session of the Human Rights Council in September 2016, she had called for the international community to accelerate its efforts to end the horrendous suffering of the millions of people subjected to contemporary forms of slavery. Since then, there had been grounds for both optimism and frustration. On the one hand, civil society had devoted more attention to the issue; Member States had improved legal and governance frameworks; more businesses were carrying out due diligence in global supply chains; and the Security Council had focused attention on the linkages between modern slavery, human trafficking and armed conflicts.

23. On the other hand, legislation still did not provide enough protection against extreme forms of labour and sexual exploitation; victims had limited access to effective and adequate remedies; preventive measures to protect those at risk did not go far enough; and the global community was doing too little to address systemic socioeconomic trends that enabled exploitation on a global scale. The 2017 Global Estimates of Modern Slavery of the International Labour Organization (ILO) estimated that 40 million people had been victims of contemporary forms of slavery in 2016, including 10 million children. Those figures highlighted the urgent need for intensified global action, including for Member States to harness all mechanisms available to them to comply with their duties to respect, protect and promote the human rights of the victims, especially among the most vulnerable communities.

24. The universal endorsement of the 2030 Agenda for Sustainable Development had created the potential for accelerating efforts to eradicate all contemporary forms of slavery. Despite the increasing criminalization of slavery and the promotion of business transparency and civil society advocacy, the scourge of contemporary slavery continued unabated. The inclusion in the Sustainable Development Goals of target 8.7 on the eradication of modern slavery reflected the enormous progress which had already been made. Nevertheless, the historic opportunity created by the 2030 Agenda would be lost if the resources to fully achieve it were not mobilized by the international community.

25. The report focused on a number of the interconnected and mutually reinforcing trends that had undermined human rights-centred sustainable

development and driven extreme exploitation on a massive scale, including globalization, poverty and widening global inequality, lack of decent work and productive employment opportunities, weak labour market regulation and persistent gender inequality. Among the recommendations proposed in the report, she emphasized the need to enhance international collaboration and knowledge-sharing through initiatives such as SDG Alliance 8.7.

26. In addition, Member States should harmonize their national legislative and policy frameworks with the Slavery Convention signed at Geneva on 25 September 1926; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the ILO Forced Labour Convention, 1930 (No. 29); the ILO Abolition of Forced Labour Convention, 1957 (No. 105); the Protocol of 2014 to the Forced Labour Convention, 1930; and the Worst Forms of Child Labour Convention, 1999 (No. 182). Member States should also have robust law enforcement capable of delivering criminal justice, specifically target illicit money flows and corruption and guarantee access to justice and adequate and effective remedies for victims. In view of the estimate by ILO that each year $150 billion was extracted from the private sector as a result of forced labour, it was vital to increase corporate accountability for contemporary forms of slavery in global supply chains. Lastly, there was considerable room for improvement in evidence and research, especially through innovative and collaborative ways of placing the human rights and dignity of each person at the core of sustainable development.

27. The world had reached a tipping point and the international community could and should do more to stop the continued violation of the fundamental human rights and dignity of adults and children. She called on Member States, the international community and other stakeholders to work together to make demonstrable progress towards achieving target 7 of Goal 8.

28. **Mr. Al Mansoori** (Qatar) said that his country, in line with its ethical and legal obligations, continued to make every effort to combat contemporary forms of slavery at the national, regional and international levels. Qatar made substantial contributions to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and had endorsed the document entitled A Call to Action to End Forced Labour, Modern Slavery and Human Trafficking, which had been adopted in September 2017 on the margins of the high-level segment of the General Assembly. He agreed with the Special Rapporteur that ending contemporary forms of slavery was an integral part of the broader struggle to combat poverty, underdevelopment and gender inequality and achieve human rights-based development and justice for all, and asked what strategies Member States could adopt to bolster their efforts to monitor and report on the implementation of the Sustainable Development Goals in the context of measures to eradicate modern slavery.

29. **Mr. Wheeler** (United Kingdom) said that his Government had established a task force to combat modern slavery; invested in training and increased the powers of law enforcement officers to better identify victims; and introduced maximum life sentences for human traffickers under the Modern Slavery Act. During the high-level week of the General Assembly, the United Kingdom had been joined by 36 States and the Secretary-General in launching a document entitled "A Call to Action to End Forced Labour, Modern Slavery and Human Trafficking", which recognized the global scale of such crimes, their ability to undermine prosperity and economic development and the global challenges in tackling them.

30. If Member States were to meet their Sustainable Development Goals, they must develop national strategies that addressed not only the root causes of modern slavery, but also victim protection and law enforcement. Since modern slavery was an issue that cut across all three United Nations pillars, the United Nations should step up its efforts to drive and coordinate a global response. He asked the Special Rapporteur in what way United Nations agencies could help countries to develop national strategies related to target 8.7.

31. **Ms. Lekalakala** (South Africa) said that collective action by the international community to achieve the 2030 Agenda would help to address major socioeconomic trends that were the drivers of contemporary forms of slavery. Her delegation believed that exercise of the right to development would help to end the enabling environment for exploitation and contemporary forms of slavery. She asked the Special Rapporteur to clarify her recommendation in the report that Governments should change the way in which they regulated processes contributing to globalization in order to counter negative socioeconomic trends.

32. **Ms. Oehri** (Liechtenstein) said that impunity was rampant despite the existence of numerous international laws on slavery. Liechtenstein was currently trying to help Member States in their investigations and prosecutions of such offences by working with financial institutions to disrupt financial chains linked to human trafficking and modern slavery. She asked the Special Rapporteur how she intended to use her mandate to contribute to the fight against impunity for those crimes.

She also wondered how the global compact for safe, orderly and regular migration could be designed in a way that prevented people on the move from being trapped in contemporary forms of slavery.

33. **Mr. Forax** (Observer for the European Union) said that the 2030 Agenda could play a crucial role in the eradication of trafficking in persons, contemporary forms of slavery and forced labour, and in ensuring that the perpetrators of related human rights abuses were held accountable. States members of the European Union were committed to implementing the 2030 Agenda through cooperation with Governments, international organizations, civil society, local communities, the private sector, academia and all relevant stakeholders. In October 2017, the European Commission had called for a renewed commitment to eradicating trafficking in human beings, with a focus on tackling the root causes of trafficking and increasing cross-border cooperation.

34. The European Union would appreciate further information on how Member States could ensure coherence and coordination among stakeholders' initiatives aimed at promoting the achievement of Sustainable Development Goals related to contemporary forms of slavery. He also wondered what reparations the Special Rapporteur recommended for victims.

35. **Ms. Mortaji** (Morocco) said that Morocco had adopted a bill on human trafficking in June 2016 as part of its policy to align all its legislation with international anti-trafficking norms. Her delegation would like to hear about examples of best practices in international cooperation for preventing and combating contemporary forms of slavery.

36. **Ms. Sandoval Espinola** (Paraguay) said that her delegation was grateful to the Special Rapporteur for her visit to Paraguay in July 2017. To counter the negative effects of globalization, inequality and similar trends, the Special Rapporteur's report should be distributed widely, especially to the private sector and transnational companies.

37. **Ms. Bhoola** (Special Rapporteur on contemporary forms of slavery, including its causes and consequences) said that various national, regional and global initiatives already existed to promote cooperation for the achievement of the Sustainable Development Goals. Alliance 8.7 helped States to mobilize resources for initiatives related to target 8.7 and enabled them to exchange best practices on a knowledge platform. She recommended that Member States work closely with Alliance 8.7 and similar initiatives which had been set up specifically to promote coordination among Member States. ILO had also worked with the International Organization for Migration (IOM) and the Walk Free Foundation to create a baseline for estimates of the prevalence of forced marriage, forced labour and child labour, which Member States could draw upon when formulating policies. Other United Nations agencies had created various other initiatives which she invited Member States to participate in and endorse.

38. Her report had largely concentrated on the negative effects of globalization, such as a reduction of labour market regulations. By recommending that Member States should change the way in which they regulated processes contributing to globalization, she had meant that they should promote the equal access of all their citizens to the benefits of globalization. It was the responsibility of Member States to comply with human rights obligations by regulating the conduct of businesses and transnational corporations operating in global supply chains. The legal framework set up by the United Kingdom under its Modern Slavery Act was a good example of that practice. Given that globalization tended to encourage businesses to develop the cheapest product possible, exploitation tended to occur in developing countries at the lowest levels of the supply chains, where labour standards and corruption were insufficiently scrutinized. Governments, businesses and stakeholders must therefore pool their efforts to ensure that the supply chain was duly monitored and that slavery was eradicated at every level.

39. According to IOM in 2016, almost two thirds of all migrants interviewed had reported falling victim to forced labour at some point during the migration process. Statistics of that kind revealed the desperate need for policy coherence between national and regional bodies and for the criminalization of contemporary forms of slavery at all levels of the supply chain. It was also important for labour inspectors and other law enforcement officials to be able to identify groups vulnerable to exploitation and forced labour and take steps to ensure that they would not become trapped in slavery.

40. It was beyond the ambit of her report to recommend measures on reparations for victims, although that would be the subject of a future report. She noted that her thematic report on access to justice and remedy contained references to specific instances in which Governments needed to address the rights of descendants of slavery who remained victims of discrimination.

41. **Mr. Ouguergouz** (President of the Commission of Inquiry on Burundi), presenting the report of the Commission of Inquiry on Burundi (A/HRC/36/54),

said that serious human rights violations had been committed in Burundi since April 2015, some of which could constitute crimes under international law. The Human Rights Council had expressed grave concern about the findings of the Commission and had decided to extend its mandate for a period of one year. The Commission would use that time to further investigate the alleged perpetrators of crimes against humanity whom it had already identified and to look into serious human rights violations committed by armed opposition groups.

42. The Government of Burundi had repeatedly refused to cooperate with the Commission, which was deeply regrettable. As recently as 11 October 2017, a request for a meeting with the Permanent Representative had been denied. The Commission also deplored the efforts of Burundian officials to discredit its work. Nevertheless, the Commission was committed to working with the Burundian authorities, in particular the parliamentary commission that had been set up to review the report of the Commission of Inquiry.

43. Contrary to the Government's claims, the human rights situation had scarcely improved since April 2015. In mid-October 2017, the Burundian refugee population had been estimated at 410,000 persons, around 4 per cent of the total population. Opportunities for democratic expression had also been severely restricted. For instance, the National Communications Council had suspended the radio station run by the Chamber of Commerce and Industry for criticizing the Government's failure to react to the massacre of Burundian refugees in the Democratic Republic of the Congo in September 2017.

44. The crisis had been worsened by pervasive impunity. The majority of human rights violations committed by agents of the State and the Imbonerakure had not been properly investigated by the authorities. The Government must take immediate measures to combat such impunity. Although Burundi would withdraw from the Rome Statute of the International Criminal Court on 27 October 2017, the Court had jurisdiction over international crimes committed between April 2015 and that date. Deploring the lack of international attention that the situation in Burundi was receiving, he urged Member States to engage in efforts to find a sustainable solution to the crisis.

45. **Mr. Shingiro** (Burundi) said that Burundi continued to endure unprecedented political and diplomatic harassment and to be subjected to a smear campaign that amounted to a diplomatic war against the Burundian people. That same campaign had led to the establishment of the Commission of Inquiry, in complete disregard of his Government's position on the matter. Burundi had legitimately rejected the hasty establishment of the Commission on the grounds that it violated the Charter of the United Nations and article 29 of the Universal Declaration of Human Rights. Burundi had not cooperated and would not cooperate with the Commission because the imposition of such a mechanism constituted a violation of his country's sovereignty.

46. Members of the Commission had not set foot in his country, and so their report on the human rights situation was clearly biased and politically motivated. Burundi reserved the right to prosecute the authors of the report for defamation and an attempt to destabilize his country. The report had been based on oral accounts and WhatsApp messages from refugees in the region who had fled the country after committing crimes during the attempted coup d'état in May 2015. They had subsequently attacked Burundi after receiving military training and equipment, in violation of the Convention relating to the Status of Refugees. The methodology of the report was also flawed since the Burundian authorities had not been given the opportunity to challenge the accusations. In addition, the Commission systematically made accusations against the Government in the report, while covering up heinous crimes of which the radical opposition groups had publicly boasted. Not a single paragraph was devoted to the radical opposition groups which operated under the umbrella of various external actors that protected them from prosecution.

47. The Commission had also recommended that the International Criminal Court initiate, as soon as possible, an investigation into the situation and that Burundi reconsider its decision to withdraw from the Rome Statute of the International Criminal Court. There was sufficient proof that the Commission had in fact been established in order to use the Court to threaten Burundi, whereas Burundi's withdrawal from that institution stemmed from the politicized nature of the reports used by the Court to make its decisions. The latest attempt by the international community to manipulate Burundi through yet another biased report had only served to entrench its position: his country's decision to withdraw from the Court would be effective in a matter of hours and was irreversible.

48. He called on the Chair of the Commission not to be swayed by political pressures. The Commission's tolerance of crimes perpetrated against civilians and State authorities, its failure to mention numerous victims and the soft language used to refer to armed opposition groups in paragraphs 95 and 96 of the report compared to the accusatory and aggressive tone

employed to refer to his Government were proof of the Commission's lack of neutrality and independence. The recommendation in paragraph 107 that European Union member States should maintain their sanctions against Burundi in flagrant contradiction to the mission assigned to them by the Human Rights Council in 2016 was solid evidence that the Commission was a political tool in the hands of the countries that had imposed sanctions on Burundi. Based on the outlandish allegations expressed by the Commission, there could be no other conclusion than that the external actors who had been behind the coup d'état in Burundi in May 2015 wanted to use the report to bring about regime change.

49. When negotiations between the European Union and the African Group had broken down, the latter had proposed an alternative draft resolution taking into account the concerns of both parties and with the aim of relaunching the talks and cooperation between the Burundian Government and the Office of the United Nations High Commissioner for Human Rights (OHCHR). To everyone's surprise, the European Union had introduced its own radical resolution, compelling the Human Rights Council to adopt two resolutions on the same country within the space of 24 hours and to create two parallel mechanisms with diametrically opposing mandates.

50. His delegation emphatically rejected the report and its conclusions for two further reasons: first, the Commission claimed that it had been unable to document the crimes committed by the insurgents because it could not enter the country, but that should have also been an obstacle to investigating charges against his Government. Second, it was unjustified to assert that the Burundian Government favoured impunity when it had arrested, tried and imprisoned hundreds of criminals, including members of its own security forces.

51. Burundi was a country committed to human rights despite the challenges that it currently faced. Dialogue, cooperation and consensus-based mechanisms like the universal periodic review were the only ways accepted by all Member States for ensuring the promotion and protection of human rights. Burundi agreed to cooperate fully with the new mechanism established by the Human Rights Council resolution initiated by the African Group as it emphasized the importance of dialogue and cooperation with the host country.

52. **Mr. Suárez Moreno** (Bolivarian Republic of Venezuela), speaking on behalf of the Movement of Non-Aligned Countries, said that human rights issues should be addressed through a constructive, non-confrontational, non-politicized and non-selective approach based on dialogue in a fair and equal manner, guided by objectivity and respect for national sovereignty, territorial integrity and non-interference in the internal affairs of States. The selective adoption of country-specific resolutions in the Third Committee and the Human Rights Council was a means of exploiting human rights for political purposes and, as such, breached the principles of universality, impartiality, objectivity and non-selectivity. The universal periodic review must be conducted with the full involvement of the country concerned. It must be based on objective and reliable information and be carried out in an impartial, transparent, non-selective, constructive, non-confrontational and non-politicized manner.

53. **Mr. Ntwaagae** (Botswana) said that his delegation was deeply concerned about the human rights situation in Burundi. The work of the Commission had clearly been hampered by the lack of cooperation on the part of the Burundian authorities and their refusal to allow the members of the Commission to visit the country, contrary to its international obligations and responsibilities. The Commission was already in place and its findings and recommendations could not be disregarded. He urged the Government to cooperate fully with the Commission so that it could carry out its mandate. The Commission and OHCHR had complementary roles to play in addressing the human rights situation.

54. **Mr. Bessedik** (Algeria) said that the adoption by the Human Rights Council of two resolutions on Burundi during the same session, resulting in the establishment of two mechanisms to address the same issue, was a cause of concern. Such duplication was a waste of resources and should be avoided. His delegation favoured constructive approaches over confrontation, which was counterproductive. It should be noted that Burundi had supported Council resolution 36/2 on technical assistance and capacity-building to improve the situation of human rights in Burundi. He reminded the Committee that the use of country-specific mandates that targeted developing countries and did not have the consent of the country concerned had been one of the reasons why the Commission on Human Rights had been replaced. The universal periodic review was the appropriate framework for examining human rights issues.

55. **Mr. Hilale** (Morocco) recalled that, in its resolution 60/251 on the Human Rights Council, the General Assembly had recognized that "the promotion and protection of human rights should be based on the principles of cooperation and genuine dialogue" and had decided that the work of the Council should be "guided by the principles of universality, impartiality, objectivity

and non-selectivity, constructive international dialogue and cooperation". The emphasis on dialogue and cooperation stemmed from the international community's recognition that the Commission on Human Rights had been politicized.

56. By establishing a commission of inquiry without the consent of Burundi, the Council had chosen confrontation over dialogue and cooperation. It was regrettable that resolution 36/2 had not received the support of all Member States. It was intended to foster cooperation between the Government and the Council, with a view to verifying allegations of human rights violations. By extending the mandate of the Commission, the Council had failed to adopt a positive approach and had created two different mandates on the same issue, namely that of the Commission and that of the team of experts from OHCHR.

57. **Mr. Mero** (United Republic of Tanzania) said that his delegation wondered where the Commission had obtained credible information that justified the report's findings, given that its members had not visited Burundi. His delegation was sceptical about the intentions behind and the justification for the report and considered it to be void. A durable solution to the situation in Burundi would only be found through inclusive dialogue, mediated by President Museveni of Uganda and the former President of the United Republic of Tanzania, Mr. Mkapa. The framework established by the Arusha Peace and Reconciliation Agreement for Burundi was also important for restoring peace.

58. The United Republic of Tanzania, together with the other States members of the East African Community, was determined to ensure that a durable solution was found. His delegation was surprised that developed countries were imposing sanctions on the Government, yet continued to support non-State actors. The Government needed significant amounts of direct development assistance to complement its ongoing efforts aimed at ensuring peace, stability and development. The international community must support Burundi with a view to establishing durable democracy in the country.

59. **Mr. Forax** (Observer for the European Union) said that the Commission had reached extremely troubling conclusions regarding the human rights violations that had taken place in Burundi since April 2015 and the role of members of the security forces and the youth league Imbonerakure. There were reasons to believe that a number of those violations constituted crimes against humanity. The perpetrators should be held responsible, regardless of their affiliation. The Burundi Government should disarm all illegitimate armed groups, end impunity and comply with the Arusha Accords, notably with the provisions relating to constitutional reform.

60. Welcoming the renewal of the Commission's mandate, the European Union called on the Security Council to ensure appropriate follow-up to the Commission's conclusions and urged all parties to heed the Commission's recommendations. In view of the continuing severe violations of human rights in Burundi in an environment of impunity, it was crucial for the Commission to continue its investigations in order to identify those responsible in an independent and impartial manner.

61. The European Union welcomed the Burundi authorities' stated intention to cooperate with the international community to improve the human rights situation in their country. The early conclusion of negotiations between the authorities and OHCHR would enable the latter to reopen its office in Bujumbura. Clarity was needed regarding the violent altercation involving armed men that had taken place in the OHCHR offices one month earlier, and those responsible needed to be held accountable for their actions.

62. He wished to know what the Commission's priorities were for the second year of its mandate and how the regional mechanisms, such as the African Commission on Human and Peoples' Rights, could assist in the implementation of the Commission's recommendations.

63. **Mr. Yao** Shaojun (China) said that his Government advocated constructive dialogue and cooperation as a way to resolve differences in the area of human rights, and opposed the arbitrary imposition of a special procedure of the Human Rights Council without the consent of the country concerned. Stability in Burundi was conducive to maintaining peace in the Great Lakes region, which had not been easy to attain. The efforts of the Government of Burundi to promote reconciliation within the country, as well as the improvement of the situation there, deserved to be evaluated objectively by the international community. China supported the choices of the people of Burundi, and supported the Government and the opposition reaching an agreement through dialogue and consultation. It also supported the leading role of the East African Community in its mediation of the question of Burundi. The sovereignty of Burundi should be fully respected, and China was ready to work with the rest of the international community towards the swift achievement of a peaceful and political settlement of the situation.

64. **Mr. Qassem Agha** (Syrian Arab Republic) said that his country categorically rejected the profoundly

biased report of the Commission of Inquiry on Burundi (A/HRC/36/54). The Commission had been established in order to politicize the human rights situation in Burundi, interfere in the internal affairs of that country, undermine its system of government, and further the interests of colonialist States that misused human rights instruments to target countries that refused to submit to their expansionist agendas. The Commission's activities were also a blatant attempt to interfere in the work of the African Union. On the other hand, Syria warmly welcomed the adoption by the Human Rights Council of the balanced resolution on technical assistance and capacity-building to improve the situation of human rights in Burundi, which fully respected the sovereignty of Burundi.

65. **Mr. AlKadi** (Saudi Arabia) underscored his country's firm rejection of all selective and politicized reports and emphasized that, in order to promote human rights in a particular country, it was essential to work closely with that country's Government with a view to adopting resolutions to promote capacity-building. Indeed, such an approach had been endorsed by the Government of Burundi. Saudi Arabia supported all ongoing efforts at the regional and subregional levels, including, in particular, the efforts of the African Union, to develop collaborative approaches and to monitor and strengthen respect for human rights in Burundi.

66. **Mr.** Omer Dahab Fadl **Mohamed** (Sudan) said that his delegation supported international and regional efforts to resolve the situation in Burundi through dialogue, cooperation and technical assistance, which enhanced the involvement of the Burundian Government and ensured better protection for human rights. The United Nations should not rely on second-hand information; unfortunately, that appeared to be the case regarding the situation in Burundi.

67. **Mr. Giorgio** (Eritrea) said that his delegation welcomed the efforts of Burundi to promote and protect human rights, including its cooperation with the universal periodic review process. The international community should recognize and support the Government's efforts. The universal periodic review was the best platform for enhancing cooperation and partnership in the promotion of human rights. Eritrea strongly opposed country-specific mandates, which were politicized, confrontational and counterproductive. Instead of promoting human rights, they vilified and antagonized countries. The Human Rights Council was the appropriate organ for addressing human rights issues. Raising such issues in meetings of the General Assembly was an ineffective use of time and resources and resulted in duplication.

68. **Mr. Moussa** (Egypt) said that his delegation was deeply concerned by the fact that the Council had adopted two resolutions on the situation in Burundi, resulting in the creation of two mechanisms whose mandates were diametrically opposed. Egypt supported Council resolution 36/2 and the mechanism it had created. The resolution, which had been proposed by the African Group, took into consideration the concerns of all parties. The Government of Burundi had agreed to cooperate fully with the mechanism established pursuant to resolution 36/2. He deplored the fact that the report was based solely on the testimonies of Burundian refugees. Inclusion of the views of the authorities, as well as of other parties, would have enriched the report. Lastly, he reiterated his delegation's opposition to the politicization of human rights.

69. **Ms. Amadeo** (United States of America) said that her delegation was concerned by the Burundian Government's continued failure to grant members of the Commission access to the country, its lack of cooperation with the international community and the general closing of space for non-governmental organizations and independent media in Burundi. It was also dismayed by the grave human rights situation in Burundi, including by reports that extrajudicial killings, enforced disappearances, sexual violence and torture had occurred and that there were grounds to believe that crimes against humanity had been committed and were attributable to State officials. She called on the Government and armed opposition groups to immediately stop all violence and ensure that those responsible for abuses were held accountable. Considering the scale of human rights violations and the non-cooperation of Burundi with human rights special procedures, her delegation also had concerns about the country's membership of the Human Rights Council. Should the reports that security forces had committed crimes against humanity be verified, she asked what steps the international community should take to promote accountability for those crimes.

70. **Mr.** Youssouf Aden **Moussa** (Djibouti) said that his delegation was extremely concerned by the politicized, selective and subjective approach to human rights currently pursued by the Third Committee. The best way to encourage Member States to combat human rights abuses was to encourage all parties to engage in regular and consistent dialogue and cooperation. The Government of Burundi had already shown political will in its efforts to address the concerns about human rights abuses, and that should be appreciated as a sign of the country's commitment to dialogue. Dialogue and cooperation were the most reliable ways for promoting and protecting human rights.

71. **Mr. Kent** (United Kingdom) said that the report of the Commission and its belief that crimes against humanity had been committed in Burundi primarily by the security forces was a matter of deep concern. He applauded the dedication and courage of those who continued to report on human rights in the country despite severe curtailment of their personal freedoms and deplored the harassment and intimidation to which human rights defenders were subjected. Given the Burundian Government's obligation to protect diplomatic premises, he also condemned the Government's failure to cooperate with OHCHR and the recent incursion into its offices by armed men. Collaboration with the Commission offered the Burundian Government an opportunity to provide a transparent overview of the human rights situation in the country. He called on the President to reverse the unacceptable course of obstruction and evasion and to demonstrate to the international community that the Government was acting in the best interests of its citizens. He asked how the Chair of the Commission intended to work with the three experts soon to be appointed by OHCHR, in particular to ensure that the perpetrators of crimes against humanity were brought to justice.

72. **Mr. Taranda** (Belarus) said that his country had always opposed the politically motivated practice at the United Nations of establishing country-specific procedures, including commissions of inquiry, as they were ineffective and subjective. The case of Burundi was a glaring example of the paradox behind country-specific mandates: they served the interests of their initiators but failed to take into account the interests of the State concerned. Their reports were biased, distorted the real human rights situation on the ground and could not be trusted. Only through respectful talks with the Government could the United Nations improve the human rights situation in Burundi.

73. **Mr. Castillo Santana** (Cuba) said that human rights should be promoted and protected through dialogue and cooperation, within the framework of the universal period review process. His delegation opposed the use of country-specific special procedures that targeted developing countries. Accordingly, Cuba had voted against Council resolution 33/24 on the human rights situation in Burundi. African regional and subregional organizations and the Burundian authorities must be included in efforts to address possible concerns in Burundi and find effective solutions.

74. **Mr. Oppenheimer** (Netherlands) said that it was crucial for all perpetrators of violations of human rights to be brought to justice and for OHCHR and Burundi to renew their cooperation. His Government was encouraged by the stated intention of the Burundi authorities to cooperate with the international community.

75. The situation in Burundi remained a matter of deep concern and warranted scrutiny by the Security Council. Although his Government welcomed regional efforts to assist Burundians in finding a political solution, while respecting the Arusha Accords in letter and in spirit, human rights violations needed to be addressed for the solution to endure. His Government therefore supported the work of the Commission of Inquiry on Burundi. He asked the Chair of the Commission to comment on the cooperation between the Commission and the three experts.

76. **Mr. Zulqarnain** (Pakistan) said that promoting human rights was a shared responsibility and could only be achieved by eschewing politicization and selectivity in favour of a constructive and inclusive approach. The universal periodic review was the main intergovernmental cooperative mechanism for reviewing human rights at the national level.

77. **Ms. Shlychkova** (Russian Federation) said that the universal periodic review remained the most appropriate forum for discussions of the human rights situation in specific States. Discussing such matters within the Third Committee brought no added value since it neither improved the human rights situation in the country concerned nor promoted human rights worldwide. The international and regional efforts to assist Burundi would therefore be successful only if Member States respected the country's independence, sovereignty and territorial integrity. International assistance should focus on addressing domestic matters and promoting national dialogue and must be agreed upon with the authorities in the country in question. Member States should aim for constructive cooperation based on equal rights and mutual respect, rather than demonizing States and Governments that had fallen out of favour with them.

78. **Mr. Chekeche** (Zimbabwe) said that his country was against the submission of country-specific reports or resolutions. The Human Rights Council's universal periodic review mechanism was the most appropriate forum to deal with human rights issues in an individual State. Constructive engagement, mutual respect and cooperation were the preferred way forward. He urged Burundi and the Human Rights Council to engage in genuine dialogue to address the issues at stake.

79. **Ms. Bakuramutsa** (Rwanda) said that her country had felt the effects of the political unrest in neighbouring Burundi. Her delegation had reviewed the reports of the Commission of Inquiry and the African

Commission on Human and Peoples' Rights. The finding that human rights violations in Burundi could constitute crimes against humanity was disturbing and should be addressed by the relevant mechanisms. Her delegation welcomed the extension of the mandate of the Commission and urged the Burundian Government to cooperate with it. Commending the efforts of the African Union, the East African Community and the United Nations, she said that Rwanda would continue to support their work, with a view to finding a sustainable solution to the crisis.

80. **Mr. Ndong Mba** (Equatorial Guinea) said that in order for a commission of inquiry to have any credibility, all parties must consent to its establishment, including the Government. Reports should not be drafted far away from the country concerned, based solely on the testimonies of third parties. The present report was not an accurate reflection of the human rights situation because it only included the views of one of the parties concerned. He wondered how the Commission had prepared the report without visiting Burundi or engaging with the Government. Moreover, he questioned how the Government could be expected to cooperate with a commission whose very existence it rejected. Instead of hastily setting up a commission against the wishes of the Government, the focus should have been on creating the right conditions through dialogue. The Government's support for Human Rights Council resolution 36/2 was an opportunity for the Council to engage in dialogue with Burundi.

81. **Ms. Pertaub** (Mauritius) said that the Third Committee should maintain a constructive approach to the promotion of human rights and should avoid naming and shaming States. Human rights principles should not be used selectively and subjectively for political reasons. She commended the efforts of the African group regarding resolution 36/2 and the willingness of the Government to cooperate with OHCHR. That was the right way to proceed, given that the involvement of Burundi was essential in order to resolve the situation in the country.

82. The Human Rights Council, which was the body mandated to deal with human rights issues, should focus on building trust and cooperation. Her delegation was concerned that the Council had adopted two resolutions on Burundi, resulting in the creation of two mechanisms with different mandates, both of which required United Nations financing. All reports presented to the Council should be inclusive and balanced. The present report had been produced without consideration for the views of the national authorities.

83. **Mr. Jo** Jong Chol (Democratic People's Republic of Korea) said that his delegation rejected the establishment of the Commission, and therefore its report, as it infringed the sovereignty of Burundi, in violation of the Charter of the United Nations. Political motivations, selectivity and double standards were incompatible with the genuine promotion and protection of human rights. Human rights issues must be discussed in the Human Rights Council through the universal period review process.

84. **Ms. Khalvandi** (Islamic Republic of Iran) said that her delegation wished to emphasize the centrality of the principles of objectivity, dialogue and cooperation in the promotion and protection of human rights and the importance of a non-selective and non-politicized approach. She welcomed the willingness of the Government of Burundi to engage constructively with the mechanism established pursuant to resolution 36/2. Dialogue and cooperation, rather than confrontation, was the most effective way to address human rights issues and grievances. In that connection, her delegation supported the constructive approach of the African Group.

85. **Mr. Joshi** (India) said that the success of country-specific mandates hinged upon the mandate-holder's independence, impartiality and ability to perform their work with sensitivity and in line with international standards and best practice methodology. Furthermore, such mandates should be established with the consent of the country concerned. The Human Rights Council and its universal periodic review mechanism provided the most appropriate means for promoting human rights. A resolution on Burundi that had been recently adopted by the Council had established a new practical approach based on cooperation and dialogue. His Government also encouraged the international community to focus on providing technical and capacity-building assistance to Burundi.

86. **Mr. Ouguergouz** (President of the Commission of Inquiry on Burundi) said that he was not surprised by the rhetoric of the representative of Burundi, or by the serious accusations levelled against him. He interpreted as a threat the statement that Burundi reserved the right to prosecute the authors of the report for defamation. He reminded the representative that the members of the Commission were protected under the Convention on the Privileges and Immunities of the United Nations, and he stressed that they would not be intimidated. He stood by the findings of the report, which were the result of thorough and impartial investigations.

87. The Commission had based its work on the testimonies of individuals living outside the country

only because it had been banned from entering Burundi. The Government had no right to complain that it had not been given an opportunity to challenge the accusations contained in the report. The Commission had written three letters to the Permanent Representative and two to the Minister of Foreign Affairs asking for information on human rights violations committed against State agents, all of which had gone unanswered. The Commission had also met the President of the Independent National Human Rights Commission of Burundi, who had failed to provide information on human rights violations committed by armed opposition groups, despite promising to do so.

88. The Commission had not been able to document human rights violations committed by armed opposition groups against State agents because the victims were too scared to testify, given that the Commission had not been recognized by the Government. During the second phase of its mandate, the Commission would endeavour to gather information on attacks perpetrated by non-State actors. He deplored such attacks.

89. Responding to the questions asked by the representative of the European Union, he said that the Commission's priorities for the next phase of its mandate were fourfold. First, it would probe more deeply into allegations that it had not had time to corroborate before the publication of its report. Second, it would investigate allegations received after the publication of the report. Every piece of information and witness statement would be corroborated and backed up with other evidence. Third, it would investigate human rights violations committed by non-State actors, in particular armed opposition groups. Lastly, it would examine violations of economic, social and cultural rights.

90. He did not wish to make specific recommendations to the African Commission on Human and Peoples' Rights, which was a sovereign body, or other regional organizations. However, he recalled that the Commission, as well as the African Union and the East African Community, could file a case with the African Court on Human and Peoples' Rights for human rights violations. Pursuant to article 5 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, Burundi itself could also file a case with the Court, which would show the international community that it was serious about combating impunity.

91. Turning to the questions asked by the representatives of the Netherlands and the United Kingdom regarding cooperation between the Commission and the OHCHR team, he said that the team would be made up of three experts appointed by the High Commissioner for Human Rights. While the members of the Commission of Inquiry were entirely independent, the members of the OHCHR team would be staff members on the payroll of the United Nations and would report to the High Commissioner. The OHCHR team was mandated to collect and forward information to the judicial authorities of Burundi, which raised concerns about the safety of victims and witnesses. While the Commission was prepared to share information with and explain its working methods to the OHCHR team, it would not cooperate with the team if the safety of victims and witnesses were not assured.

92. **Mr. Shingiro** (Burundi), responding to the statement delivered by the representative of Rwanda, said that his country had nothing to learn from Rwanda, which violated human rights on a massive scale. Rwanda had experienced an alleged genocide and it was currently instigating another genocide in the Democratic Republic of the Congo.

93. With regard to the comments made by the President of the Commission of Inquiry, he said that Burundi intended to prosecute the authors of the report for defamation and attempting to destabilize the country. He warned the President that the members of the Committee would not simply accept the entire contents of his politically motivated report, as evidenced by the statements delivered during the present meeting. Indeed, out of 28 speakers, 23 had rejected the report.

94. **Mr. Kayinamura** (Rwanda) said that the statement delivered by the representative of Rwanda had been based on the contents of the reports of the Commission of Inquiry and the African Commission on Human and Peoples' Rights, not reports drafted by Rwanda. He urged the representative of Burundi to stop externalizing the country's internal problems and exploiting the trauma of the genocide in Rwanda for his own ends.

The meeting rose at 5.55 p.m.

United Nations A/C.3/72/SR.34

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Chair: Mr. Gunnarsson ..... (Iceland)

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The meeting was called to order at 10.05 a.m.

Agenda item 72: Promotion and protection of human rights (A/72/40 and A/C.3/72/9) (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/72/127, A/72/128, A/72/131, A/72/132, A/72/133, A/72/135, A/72/137, A/72/139, A/72/140, A/72/153, A/72/155, A/72/162, A/72/163, A/72/164, A/72/165, A/72/170, A/72/171, A/72/172, A/72/173, A/72/187, A/72/188, A/72/201, A/72/202, A/72/219, A/72/230, A/72/256, A/72/260, A/72/277, A/72/280, A/72/284, A/72/289, A/72/290, A/72/316, A/72/335, A/72/350, A/72/351, A/72/365, A/72/370, A/72/381, A/72/495, A/72/496, A/72/502, A/72/518, A/72/523 and A/72/540)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/72/279, A/72/281, A/72/322, A/72/322/Corr.1, A/72/382, A/72/394, A/72/493, A/72/498 and A/72/556; A/72/580-S/2017/798, A/72/581-S/2017/799, A/72/582-S/2017/800, A/72/583-S/2017/816, A/72/584-S/2017/817, A/72/585-S/2017/818, A/72/586-S/2017/819, A/72/587-S/2017/852, A/C.3/72/11, A/72/588-S/2017/873, A/C.3/72/14 and A/C.3/72/16)

1. **Mr. de Greiff** (Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence), introducing his report (A/72/523), said that he had argued for the adoption of a substantive and comprehensive framework approach to prevention. To date, prevention efforts had been reactive, often incoherent and neither holistic nor strategic, and they had not had significant links to human rights. Despite an emerging consensus about the need to upstream prevention work and address human rights issues, there was no clear idea of what that might entail and how the United Nations system or anyone else could achieve the required degree of coordination.

2. From a practical standpoint, prevention work had been hindered by poor investments and weak commitments. However, it had also suffered from knowledge silos and a tendency to focus solely on institutional reform, despite the important potential of civil society and the role of culture. A comprehensive framework approach would provide incentives to move from the abstract to the concrete, break down silos and integrate measures known to be effective but seldom deployed as prevention tools in any systematic way.

3. His report presented a bare-bones framework that would need to be filled out. Moreover, a prevention framework was not the same as a policy blueprint tailored to a specific context. Nevertheless, for planning purposes, it was better to have such a tool.

4. With respect to civilian institutions, it was essential to ensure an effective means of delivering proof of legal identity, which was a gateway for the realization of other rights, as well as to encourage governments to ratify international human rights instruments and incorporate them into prevention policy and domestic law. Regarding constitutional reform, at a minimum, constitutions should be amended to remove discriminatory provisions and introduce mechanisms of inclusion, but they could also be improved by appending a bill of rights, although its preventive potential depended as much on the process of producing the text as on the text itself. In addition, a constitutional court could be established to address massive human rights violations when judges could not be trusted but also could not be fired.

5. With respect to the security sector, prevention measures could include vetting police, armed forces and intelligence service personnel, which helped to dismantle networks of criminality, and giving precise constitutional definition to the role of police, military and intelligence institutions. Because periods of conflict and serious risk of conflict tempted governments to create special security bodies with partially overlapping mandates and unclear lines of reporting and command, another important step might be to rationalize forces and clarify reporting and command lines. Other steps included establishing or strengthening multilayered civilian oversight mechanisms, eliminating military prerogatives and restricting the jurisdiction of military courts.

6. Even though civil society had been an engine of progress in human rights, most discussions about prevention ignored it or assigned it narrow, predictable functions such as advocacy, monitoring and reporting. There was a robust correlation between a strong and autonomous civil society and positive human rights indicators, in part because civil society aggregated shared views and bonds of concern. A framework approach should therefore include measures to strengthen civil society and increase its autonomy, such as repealing laws that limited civic space, establishing civil society platforms, coalitions or networks, creating official forums of consultation and fostering an enabling environment.

7. Lastly, a comprehensive prevention framework should include actions aimed at sustainable social

change. Three obvious areas of intervention were education, arts and culture, and archives and documentation.

8. **Ms. Mugaas** (Norway) said that the Human Rights Up Front initiative was highly relevant but needed continued political and financial support to deliver on its objectives. Her delegation welcomed the emphasis on the role of civil society in preventing conflict and human rights violations. She asked about possible next steps for ensuring that United Nations reform included a comprehensive, human rights-based prevention framework.

9. **Mr. Forax** (Observer for the European Union) said that strategic, proactive and holistic conflict prevention should be at the core of any new institutional mechanisms and competences. Given the importance of strong civil society participation, he would like to know how States could enable civil society organizations and networks to engage more deeply on human rights and conflict prevention and what the United Nations could do to ensure the safety of civil society actors and facilitate their work.

10. **Mr. Carabalí Baquero** (Colombia) said that his delegation welcomed the report of the Special Rapporteur on his global study on transitional justice (A/HRC/36/50/Add.1), including in particular his promotion of the sharing of lessons learned and good practices. Colombia remained committed to building lasting peace after five decades of armed conflict. The final peace agreement addressed the structural causes of the conflict through comprehensive rural reform and measures aimed at solving the problem of illicit drugs, expanding democracy and promoting political participation. All phases of determining the shape and functions of the truth commission and the search unit had been carried out with the effective participation of victims and victims' organizations. In that connection, the members of the truth commission would be announced on 14 November. His delegation wished to reaffirm Colombia's interest in following up on the Special Rapporteur's work, in accordance with the priorities of his mandate.

11. **Ms. Fontana** (Switzerland) said that her Government also recognized the limitations of the "early warning early action" approach and emphasized national preventive mechanisms and institutional and societal resilience in its cooperation policy. She would like to know what steps the United Nations system should take to overcome structural and operational challenges for prevention. Her delegation particularly appreciated the efforts of the Special Rapporteur to break down silos.

12. **Mr. Kelly** (Ireland) said that his delegation agreed that a framework approach to prevention should include actions to support and strengthen civil society. He asked for some examples of platforms, coalitions or networks established by civil society actors.

13. **Ms. Brooks** (United States of America) said that her delegation appreciated that there was no one-size-fits-all prevention solution but considered it vital to learn from each unique context. In view of the critical role of civil society organizations, it welcomed the Special Rapporteur's guidance on how States could better support them through a framework approach.

14. **Mr. de Greiff** (Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence) said that he appreciated the recognition of his efforts to establish conceptual links between transitional justice and other themes. With prevention back at the top of the agenda, there was a good possibility of progress on it, especially given the apparently broad agreement on the importance of including human rights. To date, the issue of prevention had sparked discussions focused solely on internal structural reform, which was an abstract goal. The next step should be a much more serious, sustained and in-depth discussion of the specific tasks required for effective prevention.

15. With respect to strengthening civil society, in many countries it was important to repeal recent legislation closing off civil space. In others, such as Sri Lanka, individual sectors of civil society were strong and competent, but they would be more effective if they could build networks with other sectors, and while governments should not run or create such networks, they could facilitate their establishment. Lastly, nothing would give civil society organizations greater incentive than the establishment of forums in which they could be heard and taken seriously by public officials.

16. **Mr. Muntarbhorn** (Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity), introducing this first report to the General Assembly (A/72/172), said that the establishment of the mandate was an incentive to move forward together. It was unconscionable that persons whose sexual orientation or gender identity differed from the norm should be the targets of egregious violence and discrimination in many parts of the globe. In his report, he discussed two of the six areas of concern outlined in an earlier report to the Human Rights Council (A/HRC/35/36), namely, decriminalization and anti-discrimination measures.

17. Among recent positive developments, he warmly welcomed the growing momentum to abolish the death

penalty for consensual same-sex relations, the new Standards of Conduct for Business on tackling discrimination against lesbian, gay, bisexual, transgender and intersex people and, in countries that criminalized same-sex relations, recent judicial decisions vindicating the right of transgender people to have their self-identified gender recognized and permitting the registration of nongovernmental organizations active on such issues. At the same time, however, there were signs of regression. In some countries that criminalized consensual same-sex relations, lesbian, gay, bisexual and transgender people were being targeted not for their conduct, but for who they were. Sexual orientation and gender identity issues were being used for political ends to consolidate power bases or ostracize opponents, and human rights defenders active on those issues were being attacked.

18. With regard to decriminalization, in the past 20 years, around 25 countries had decriminalized consensual same-sex relations. However, more than 70 countries still criminalized consensual relations between men; at least 40 criminalized them between women as well, and a few African and Asian countries imposed the death penalty for such relations. Several countries had laws specifically criminalizing transgender persons on the basis of gender identity or expression, often with vague provisions leading to arbitrary human rights violations, including arrests and detentions. Elsewhere, public decency, public health or breach-of-peace laws were commonly used to criminalize the conduct of those people indirectly. Various religious laws also had a negative effect. Even where negative laws were seldom, if ever, enforced, their existence fed extortion, persecution, multiple and intersectional phobia, violence and discrimination. Reform could be initiated by checks and balances at the national level, but the role of human rights defenders and national human rights institutions should not be underestimated.

19. To combat discrimination, States needed to institute legal and practical anti-discrimination measures and to encourage the acceptance of sexual and gender diversity. While several countries had adopted legislation prohibiting discrimination on those grounds and guaranteeing equality before the law, national laws must be reflected in policies, practices and local regulations and must be followed up with case-by-case enforcement and litigation, access to mechanisms of protection and redress, adequate resourcing, monitoring, education, capacity-building and the creation of space for participation and inclusion.

20. Despite significant legal advances, important gaps remained. For example, fewer than half of the countries that offered legal protection from discrimination explicitly prohibited discrimination based on transgender identity. Only a few States had legal provisions prohibiting discrimination in all spheres of life; some legislation did not cover the private sector, and laws were not always properly enforced.

21. In addition to the recommendations in his report, he called for an immediate global moratorium on the death penalty for consensual same-sex relations as well as on direct and indirect criminalization of such relations and other acts associated with sexual orientation, gender identity and gender expression. An awareness campaign should accompany the moratorium. At the national level, protection against violence and discrimination based on sexual orientation, gender identity and gender expression should be incorporated more substantively into a broader range of anti-discrimination measures and should be accompanied by education not only for children, but also for law enforcement and other power groups. Lastly, stakeholders should capitalize on the international, regional and national instruments, forums and goals that provided opportunities to advance an inclusive agenda for all.

22. **Mr. Barros Melet** (Chile), speaking on behalf of Argentina, Brazil, Chile, Colombia, Costa Rica, El Salvador, Mexico and Uruguay, said that those countries welcomed the first report of the Independent Expert and reiterated their call to other special procedures mandate holders, treaty bodies, the United Nations High Commissioner for Human Rights, the Secretary-General of the United Nations and the leadership of other agencies, in collaboration with the Independent Expert, to continue to focus on the fight against violence and discrimination based on sexual orientation and gender identity. They noted that the inter-American system had made numerous contributions to the fight against violence and discrimination, in particular through the appointment of a regional rapporteur to address specifically the issue of lesbian, gay, bisexual, transgender and intersex persons.

23. **Mr. García Moritán** (Argentina) said that his country welcomed the fact that Argentina had been the first country to be visited by the Independent Expert and looked forward to the publication of the report on the visit, in particular the recommendations and proposals to strengthen legislation and national mechanisms for the promotion of the human rights of lesbian, gay, bisexual, transgender and intersex persons. The report of the Independent Expert focused on decriminalization and the fight against discrimination, which were central themes of Argentinian domestic policy. He asked how

States could help to strengthen the global trend of the decriminalization of consensual same-sex relations.

24. **Mr. Mminele** (South Africa) said that the Constitution of South Africa was premised on the fundamental principles of the promotion of human dignity, equality and non-discrimination of all persons; respect for the promotion, protection and fulfilment of human rights was therefore a critical pillar of its domestic and foreign policies. More clarification would be appreciated on the best possible approach to enhancing dialogue on the intersectionality between sexual orientation and gender identity and other issues, including racism and poverty, bearing in mind that the notions of sexual orientation and gender identity did not affect only one race.

25. **Ms. Amarillas Castellanos** (Mexico), drawing attention to the public consultations held in January 2017, said that Mexico welcomed the Independent Expert's encouragement of open and transparent dialogue with all stakeholders. Mexico would continue to work with the mandate, including by providing information for the preparation of reports, and it urged other States and stakeholders to do the same. Her delegation would like to know about the extent of international cooperation in support of national efforts to combat violence and discrimination based on sexual orientation, what role the United Nations could play and how such cooperation could be expanded and enhanced.

26. **Ms. Verstichel** (Belgium) said that as human rights were universal and indivisible, Belgium would remain engaged on the issue of protecting individuals from violence and discrimination regardless of race, religion or belief, gender identity or sexual orientation. The experience and at times divergent views of States were of particular importance in achieving tangible and long-term progress in the protection of the human rights of lesbian, gay, bisexual, transgender and intersex persons. Her country would continue to work in support of the United Nations human rights mandate holders, in particular the Independent Expert, to ensure access to a wide range of countries while fostering a climate of dialogue.

27. **Ms. Kadare** (Albania) said that it was the responsibility of Member States to protect vulnerable and often marginalized communities in society, and lesbian, gay, bisexual, transgender and intersex persons should be treated fairly and equally. Albania attached the utmost importance to the universal nature of human rights and the fundamental principles of equality and non-discrimination, and stood in solidarity with victims of unacceptable violence and discrimination based on sexual orientation and gender identity.

28. **Ms. Eckels Currie** (United States of America) said that the mandate of the Independent Expert was of critical importance to her country, especially at a time when lesbian, gay, bisexual, transgender and intersex persons around the world were being murdered, tortured and attacked. Dignity and equality were core universal human rights values as well as American values underpinned by the Constitution, and the United States would continue to stand up for the human rights of all persons. In 2017, it was unacceptable that such persons faced criminal charges relating to their status or conduct in around 80 countries, and it was intolerable that in some countries same-sex conduct was punishable by death. She asked what tools had been employed to engage with Governments that criminalized same-sex conduct and what more the international community could do to ensure that those issues remained priorities.

29. **Mr. Holtz** (United Kingdom) said that his country saw the appointment and work of the Independent Expert as integral elements of international efforts to tackle violence and discrimination and deliver on the commitment of the 2030 Agenda for Sustainable Development to leave no one behind. The Independent Expert stated in his report that the role of United Nations bodies was pivotal in raising the issue of violence and discrimination. He asked for clarification on the process envisaged from the moment of identification of a violation to the response of a United Nations country team.

30. **Mr. Jelinski** (Canada) said that his country, together with Chile, was co-President of the Equal Rights Coalition, which aimed to promote inclusive development and defend the rights of lesbian, gay, bisexual, transgender and intersex persons. Canada had had a long history of State-sponsored discrimination, homophobia, transphobia and biphobia, and serious problems remained, in particular for two-spirit indigenous persons and transgender persons. His country was committed to improving the situation and welcomed the fact that the Independent Expert had noted its new act on gender identity and gender expression. He asked what was the best way to ensure that lesbian, gay, bisexual, transgender and intersex persons were included in the implementation of the Sustainable Development Goals.

31. **Ms. Omiya** (Japan) said that her country would actively support the activities of the Independent Expert together with the LGBT Core Group. She asked how Member States could listen better to the voices and experiences of lesbian, gay, bisexual, transgender and intersex persons.

32. **Mr. Carabali Baquero** (Colombia) said that his country reaffirmed its commitment to the fight against violence and discrimination based on sexual orientation and gender identity. It had adopted a number of affirmative actions, including protection measures for social groups that could become victims of discrimination based on their sexual orientation with a view to guaranteeing their human rights and the full application of the principle of equality. Thanks to political empowerment, awareness-raising and capacity-building on human rights issues and the inclusion of lesbian, gay, bisexual, transgender and intersex persons in various institutions and social spheres, the hiding and silencing of those persons had gradually been reduced.

33. **Ms. Wacker** (Observer for the European Union) said that cultural, traditional or religious values could not be invoked to justify any form of discrimination or violence against any individual, including lesbian, gay, bisexual, transgender and intersex persons. It was a matter of concern that consensual same-sex relations were still criminalized in more than 70 countries, and Governments, together with civil society, should commit to working together to change those laws and to make anti-discrimination measures more effective. In June 2013, the Council of the European Union had adopted guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex persons. Support and protection for human rights defenders was another priority of the European Union, and she asked the Independent Expert to share best practices in that regard.

34. **Ms. Morton** (Australia) said that her country remained strongly committed to promoting equal human rights and non-discrimination for lesbian, gay, bisexual, transgender and intersex persons. It called on all States to decriminalize consensual same-sex relations and on States that applied the death penalty in those cases to cease all executions and establish a moratorium on the use of the death penalty. Despite comprehensive anti-discrimination measures in Australia, more remained to be done to remove the structural barriers that discriminated against lesbian, gay, bisexual, transgender and intersex persons in practice. Her country welcomed the contribution of its national human rights institution to the Independent Expert's report, and encouraged all national human rights institutions to engage with the mandate. She asked what were the most common structural barriers in States with effective anti-discrimination measures.

35. **Ms. Charrier** (France), noting that homosexuality was still criminalized in more than 70 countries and that the death penalty was sometimes applied, asked how the international community could work jointly towards universal decriminalization of homosexuality. Her delegation would also be interested to hear how the United Nations could better protect defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons from threats and attacks. Discriminatory laws, policies and practices should be repealed, and their application should cease immediately. As a member of the LGBT Core Group and the Equal Rights Coalition, France remained fully committed to that issue.

36. **Mr. Bastida** (Spain) said that his delegation was pleased that some of the measures adopted by the Government of Spain to combat discrimination based on sexual orientation and gender identity had been recognized by the Independent Expert in his report. Spain was of the view that education was key in the fight against violence and discrimination based on sexual orientation and gender identity and would like to hear some good practices for promoting acceptance of diversity. Work had begun to develop a State strategy on the rights of lesbian, gay, bisexual, transgender and intersex persons with the aim of eliminating discrimination, promoting acceptance and social and legal recognition of family diversity and forming anti-discrimination plans for the public sector.

37. **Mr. Kelly** (Ireland) said that the creation of the role of the Independent Expert had sent an important message of solidarity to the members of the lesbian, gay, bisexual, transgender and intersex community, and his country was therefore concerned and disappointed at the efforts made by some States to defer the implementation of the mandate. It fully agreed with the recommendations in the report and hoped that all States would implement them. Noting the conclusion in the report that the phenomenon of violence and discrimination based on sexual orientation and gender identity was both local and global and required strong national and international countermeasures to promote respect for sexual and gender diversity under the umbrella of international human rights laws, he asked for examples of best practices and measures in that regard.

38. **Mr. Oppenheimer** (Netherlands) noted that the Independent Expert stated in his report that the 2030 Agenda offered an opportunity to tackle violence and discrimination on the basis of sexual orientation and gender identity, and asked how that element could be integrated into the work on the Sustainable Development Goals.

39. **Ms. Schoulgin-Nyoni** (Sweden), speaking on behalf of Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden, said that those

countries fully echoed the Independent Expert's call on States to ensure that a variety of stakeholders adopted educational and capacity-building measures with regard to sexual orientation and gender identity, and asked what was the most suitable way to approach that issue. They also fully shared the view that civil society helped to energize the path to legislative reform, and asked what the main obstacles were for non-governmental organizations, human rights defenders and those working to achieve reform of discriminatory legislation.

40. **Ms. Učakar** (Slovenia) said that her country appreciated the emphasis on the key role of civil society and human rights defenders, which made an important contribution to combating stigmatization. Human rights education was an important tool to raise awareness and acceptance of diversity in societies from an early age. She asked what the best way was to approach the plight of lesbian, gay, bisexual, transgender and intersex children and young people in relation to violence and discrimination, such as bullying at school and at home.

41. **Mr. Clyne** (New Zealand) said that in New Zealand, the homosexual law reform act of 1986 had decriminalized relations between men aged 16 and over, the reforms of 1993 to the human rights act had prohibited discrimination on the grounds of sexual orientation, and same-sex marriage had been legalized in 2013. In 2017, Parliament had formally apologized to the men convicted under old laws that had criminalized homosexuality and had passed legislation to expunge convictions for historical homosexual offences. The high frequency of State-sanctioned or State-tolerated violence and discrimination based on sexual orientation or gender identity around the world was completely intolerable and unacceptable

42. **Ms. Macherel** (Switzerland) noted that the Independent Expert had underlined the increasing role of social media as a platform for hate speech and incitement to violence and stated that empathy was a basic requirement in combating discrimination. She asked how an environment conducive to empathy could be created and what should the other priority areas be in anti-discrimination efforts. She also asked how the implementation of the 2030 Agenda contributed to the advancement of the mandate and what support could be provided by the international community.

43. **Mr. Strohmayer** (Israel) said his country called on Governments to decriminalize consensual same-sex relations and adopt anti-discrimination measures to help to prevent and overcome violence against the lesbian, gay, bisexual, transgender and intersex community. Israel partnered with civil society organizations to guarantee rights to all persons fighting discrimination based on sexual orientation or gender identity, raising public awareness and educating young people about the importance of acceptance and tolerance. As a member of the LGBT Core Group and the Equal Rights Coalition, Israel was at the forefront of the struggle to end violence and discrimination against individuals based on their sexual orientation and gender identity. Fighting discrimination and violence against such persons did not imply creating new rights to a new group but rather guaranteeing the same rights to all people equally, and the entire international community should be involved in that endeavour without politicizing the issue.

44. **Ms. Sammut** (Malta) said that her country was one of just two States whose Constitution explicitly included sexual orientation and gender identity as grounds for non-discrimination. The rights of trans, intersex and gender variant persons were often overlooked in gender equality discussions; during the sixty-first session of the Commission on the Status of Women, Malta had therefore hosted a side event on legal reforms to protect the human rights of those persons with the intention of raising awareness and indicating actions that could be taken by Member States to that end. Her country had adopted an act on gender identity, gender expression and sex characteristics allowing all persons to change their name and align their gender on official documents following a notarial declaration and introduced laws recognizing all sexual orientations, gender identities and gender expressions as equally valid, banning conversion practices and changing the pathological view of sexual orientation, gender identity and gender expression.

45. **Mr. Muntarbhorn** (Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity) said that, to promote decriminalization, checks and balances at the local and national levels, peer examples and regional and interregional cooperation could be useful. He noted the excellent cooperation between the inter-American and the African human rights systems, with the support of the Office of the United Nations High Commissioner for Human Rights, in countering violence and discrimination. Many United Nations agencies had direct or indirect programming against violence and discrimination that also covered lesbian, gay, bisexual, transgender and intersex issues.

46. At the multilateral level, many United Nations programmes worldwide already addressed those issues. For example, the United Nations Educational, Scientific and Cultural Organization (UNESCO) was already working against bullying in many countries. Anti-violence and anti-discrimination messages could be

inserted into HIV and health-related programming. Direct programming could also be employed, such as the programme relating to lesbian, gay, bisexual, transgender and intersex persons in the Asia region supported by bilateral agencies and the United Nations Development Programme.

47. Possible tools for engagement with Governments, in particular on criminalization issues, included information, capacity-building, dialogue and advisory services. The Sustainable Development Goals were a good entry point for inserting coverage for everyone without discrimination, including on the issues of anti-violence and anti-discrimination. Good role models and positive examples were needed to ensure the inclusion of lesbian, gay, bisexual and transgender persons in the Sustainable Development Goals. Some countries, such as Argentina, had adopted affirmative action programmes, including a quota for transgender people to encourage greater inclusion.

48. The voices of lesbian, gay, bisexual and transgender persons could be better heard at the local and national levels through their direct inclusion in various forums. Lesbian, gay, bisexual and transgender groups should be given access to regional human rights systems and the United Nations system as a whole.

49. With regard to supporting and protecting human rights defenders, the freedoms of association and speech should be ensured, action against reprisals should be taken, and access to funding, registration and participation should be guaranteed.

50. Structural barriers ranged from systemic issues to antiquated laws. A total approach to removing such barriers would involve the reform of old laws and the adoption of better laws, policies and practices. Laws that were not compliant with international human rights should not be implemented.

51. Good examples of practices for promoting acceptance of diversity could be seen in many countries. Gender recognition and gender identity laws were becoming more widespread in terms of enabling transgender people to reflect their real gender identity without coercion or medical imposition.

52. All 17 Sustainable Development Goals were opportunities for integrating action against violence and discrimination, but Goal 16 in particular provided a good opportunity to integrate a message and action to leave no one behind, including in regard to sexual orientation and gender identity. Many Governments were submitting voluntary reports through the high-level political forum on sustainable development, and he hoped that they would include specific action on sexual orientation and gender identity.

53. There were good examples of human rights education, in particular as supported by UNESCO. Education provided an opportunity to nurture an understanding public in terms of gender diversity from a young age. The catalytic triangular relationship between child, teacher and parent and the participation of various actors at the local level were extremely important in that regard.

54. Positive social media in terms of promoting care, compassion and respect for human rights without discrimination should be encouraged. Action needed to be taken against negative media. In some cases, criminal laws were needed against incitement to hatred, hostility and violence in keeping with international standards, in particular the International Covenant on Civil and Political Rights.

55. **Mr. Lynk** (Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967), introducing his report, said that one of the fundamental obligations of membership in the United Nations, as laid out in the Charter and in the Convention of the Privileges and Immunities of the United Nations, was for States to cooperate with the various organs of the United Nations, including Special Rapporteurs. However, Israel had refused to cooperate with the mandate, denying visits from the Special Rapporteur and refusing to respond to his communications. The human rights communities in Palestine and Israel had extended cooperation to the Special Rapporteur and had issued excellent reports, as had the Government of Jordan and the Palestinian Authority, but that was no substitute for a country visit. The refusal of the Government of Israel to engage was contrary to its obligations to cooperate with the international human rights system and to its duties as a member of the United Nations.

56. Among pressing humanitarian and human rights issues in the occupied Palestinian territories, the humanitarian situation in Gaza had become increasingly serious, with extremely limited access to electrical power and drinking water. Over 60 per cent of Gazans depended partly or wholly on humanitarian aid, which had led to a shrinking of its economy. In the West Bank and East Jerusalem, the steady increase in new settlement construction and the annexation of the Jordan Valley were of great concern.

57. The Israeli occupation had lasted 50 years, the longest-running occupation in the modern world. The international community had heretofore treated Israel as the lawful occupant of the occupied Palestinian

territories, but settlements, the construction of the separation wall, annexation of East Jerusalem and parts of the West Bank and systematic human rights violations had rendered that legal characterization inadequate. That led to the main question addressed in the report: could an occupying Power engaged in a protracted occupation and committing violations of international law in its treatment of the occupied territory have crossed a line and become an illegal occupant?

58. He proposed a four-part test, anchored in international law, to determine the answer to that question. First, a well-established and universally endorsed principle was that an occupier could not annex or gain title to any part of an occupied territory. Moreover, occupation could be neither indefinite nor permanent. The occupying Power must also act in the best interests of the protected people under occupation, subject only to legitimate security concerns. Lastly, the occupying Power must administer the territory in good faith. There were many precedents for that test in the work of the United Nations towards decolonization, in particular the case of Namibia.

59. In his view, Israel was in violation of all four parts of the test and had crossed the line into illegality. As the human rights situation continued to deteriorate and as Palestinians bore the brunt of Israel's violations of international law, the international community must employ the appropriate legal and diplomatic tools to ensure that the occupation finally and completely came to an end.

60. **Ms. Rasheed** (Observer for the State of Palestine) said that the report could serve to transform the discussion of the Israeli occupation of Palestinian territory by focusing on its illegality rather than merely its illegal violations as occupier. The current report differed from those of the past two years in that it did not go into detail about the host of violations committed by Israel in the context of its military occupation. While those violations had been touched on, the report mainly illustrated that the Israeli occupation had become illegal under international law. That illegality was most clear through the continued colonization by Israel of Palestinian land, which had led to a situation of de facto annexation, and by its exploitation and theft of natural resources.

61. Moreover, the fact that nearly every single United Nations resolution had been repeatedly violated and ignored by Israel demonstrated that the occupying Power was not acting in good faith. During the twenty years of the peace process, which was supposed to end the occupation and establish an independent Palestinian State on 22 per cent of historical Palestine, the settler population had doubled, the occupation was further entrenched and violations continued with impunity. Part of the reason that such a state of affairs had been allowed to continue was that the international community had failed to hold Israel accountable.

62. She asked the Special Rapporteur to elaborate on the implications of a finding that the occupation was illegal: what would happen to the legal framework protecting the occupied people and what would be the obligations of the international community upon such a declaration?

63. **Ms. Furman** (Israel) said that the Human Rights Council was founded on the principles of universality, impartiality, objectivity and non-selectivity. However, there was nothing objective about the mandate of the Special Rapporteur, as it was one-sided, targeted Israel and ignored the blatant human rights violations against Palestinians and Israelis by Hamas and the Palestinian Authority. Hamas was an internationally-recognized terrorist organization that hid rockets in mosques, built terror tunnels under United Nations schools and used its own people as human shields. The Palestinians arrested journalists who dared to report negatively about their actions, jailed political dissidents and tortured prisoners. The Palestinian Authority paid salaries to terrorists to kill innocent Israelis.

64. No true champion of human rights would consider serving in the role of Special Rapporteur under such a blatantly biased mandate. The antipathy of the Special Rapporteur to Israel was no secret. He had compared Israel to the Nazis, had accused it of ethnically cleansing the Palestinians, and had very recently called for academic sanctions against Israel. It was clear that he had chosen to exploit the United Nations to promote his personal anti-Israel agenda and therefore should resign immediately.

65. **Ms. Scott** (Namibia) said that her delegation regretted that Israel had not granted permission to the Special Rapporteur to visit the country, forcing him to compile his report from information provided by persons in the occupied territories and human rights defenders. It was perplexed by the Israeli stance, since it had an interest in demonstrating compliance with international human rights laws. The situation was reminiscent of the apartheid colonial regime that had ruled Namibia for over 40 years, which was well known for its hardline stance and vilification of the United Nations. It was therefore fitting that the report referred to the advisory opinion of the International Court of Justice on Namibia issued in 1971.

66. Given the prolonged occupation, characterized by a persistent failure by the occupying Power to comply

with its obligations, including implementation of United Nations resolutions, she asked the Special Rapporteur to elaborate on the possibility of seeking an advisory opinion on the Palestine issue from the International Court of Justice. In addition, given the deteriorating living conditions of Palestinians in Gaza, she wondered whether the Special Rapporteur would characterize the situation as collective punishment of that population.

67. **Mr. Mminele** (South Africa) said that his Government had consistently voiced its position against the human rights and humanitarian law violations associated with the occupation. The assessment of the Special Rapporteur in paragraphs 8 to 10 of his report painted a bleak picture of the enjoyment of economic, social and cultural rights, especially the right to health, by the Palestinians. His Government had issued a statement in April 2017 condemning the settlement activity in occupied Palestinian territory. South Africa shared the view of the Special Rapporteur that the Israeli occupation had become an occupation without end, and that the international community had treated Israel as a lawful occupant.

68. **Ms. Moutchou** (Morocco) said that the Palestinian question was at an impasse, without any possibility of negotiations Jerusalem was a symbol of coexistence and had a special status for the followers of three religions. The Kingdom of Morocco and its King called for the creation of a State of Palestine within the 1967 borders, with East Jerusalem as its capital, as a means towards ending the Middle East conflict and promoting international security.

69. **Mr. Alasim** (Saudi Arabia) said that the report of the Special Rapporteur had reflected only a part of the suffering borne by the Palestinians due to the oppressive Israeli occupation. Israel continued to ignore international law and violate human rights. It persisted in its confiscation of land and property and settlement-building. Saudi Arabia reiterated its support for all efforts to end the brutal occupation of Palestinian land and called on the international community to move quickly to find a solution to the crisis.

70. **Ms. Sandoval** (Nicaragua) asked how the illegal Israeli settlement policy was affecting the livelihoods and right to development of the Palestinians and how the opportunities for protection and economic development available to them compared with those available to the Israeli settlers.

71. **Mr. Forax** (Observer for the European Union) said that a negotiated two-State solution that ended the occupation and fulfilled the aspirations of both sides was the only way to bring lasting peace and security. The European Union deplored the Israeli settlement policy, which was illegal under international law and threatened the viability of the two-State solution. Furthermore, the European Union condemned terror and violence on all sides and in all circumstances. It welcomed the agreement signed in Cairo in October 2017, which, if fully implemented, could be an important step towards achieving Palestinian unity.

72. **Mr. Castillo Santana** (Cuba) said that his delegation advocated the recognition by the United Nations of a State of Palestine within the 1967 borders, with East Jerusalem as its capital. Cuba reiterated the need for a just, peaceful and lasting solution to the Israeli-Palestinian and Israel-Arab conflicts, which would not be possible if justice was denied to the victims of grave human rights violations.

73. **Ms. Qu** Jiehao (China) said that her country had been following the human rights situation in the occupied Palestinian territory and hoped that both parties would remain committed to the two-State solution and relaunch peace talks. During a visit by President Abbas of Palestine to China in July 2017, Chinese President Xi Jinping had put forward the Government's four-point position, which advocated a political settlement based on the two-State solution, a shared vision with respect to security, coordination among the international community and measures to foster peace through development.

74. **Mr. Canay** (Turkey) said that the illegal settlement policy of Israel continued to violate international law and relevant United Nations resolutions and damaged the vision for a two-State solution. It was important to preserve the historical status and sanctity of Aqsa Mosque, as any attempts to change the status quo in that regard jeopardized peaceful coexistence. Turkey continued its efforts to improve Palestinian living conditions through development assistance and reconstruction projects. Furthermore, Turkey supported the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

75. **Mr. Rosdi** (Malaysia) said that Palestinians in East Jerusalem had been subjected to grave violations, making their lives unbearable and forcing many of them to leave the city. Such illegal practices included restrictions on movement, denial of building permits and the revocation of Jerusalem identification papers. He asked about the implications of such policies for Palestinians' livelihoods and human rights.

76. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that his delegation welcomed the report of the Special Rapporteur and its discussion of the electricity crisis in Gaza, the expansion of illegal settlements, the destruction of Palestinian homes in East

Jerusalem and the continued refusal by Israel to implement Security Council resolutions. It also appreciated the deep legal review of the status of the occupation. He asked whether the Special Rapporteur had asked close allies of Israel to urge that country to allow him to visit occupied Palestinian territory.

77. **Mr. Hassani** (Indonesia) said that his country called on the international community to push for peace. Issues such as fundamental human rights, freedom of movement, poverty and freedom from fear should be prioritized. The occupying Power must end its practice of extrajudicial killings, deliberate destruction of infrastructure and expansion of settlements.

78. **Mr. Aseel** (Maldives) said that the crisis in the State of Palestine was entirely man-made and the result of the illegal and prolonged Israeli occupation. Since the occupation had begun, generations of Palestinians had been denied their fundamental rights. The occupation was a flagrant violation of international law and had been rejected by the Member States. An independent and sovereign Palestine with East Jerusalem as its capital, living side by side with Israel, was the only way forward.

79. **Mr. Torbergsen** (Norway) said that his Government urged Israel to cooperate with the Special Rapporteur and grant him full access to the Palestinian territories. It was imperative that the rules and principles of international humanitarian and human rights law were upheld. Any policies and practices infringing on the basic rights of the Palestinian population were of grave concern. Norway shared concerns about administrative detention, demolitions, and forcible transfer and practice amounting to collective punishment. Peace, security and prosperity for both Israelis and Palestinians could only be achieved through a negotiated two-State solution.

80. **Mr. Ustinov** (Russian Federation) said that the recommendations made in the report of the Middle East Quartet of 2016 were still relevant. The only solution was one that would lead to the creation of an independent, contiguous, sovereign and viable Palestinian State, living side-by-side with Israel in peace and security and guaranteeing adherence by its citizens to human rights standards. The Russian Federation advised against unilateral measures that undermined efforts to restart the political process. The main strategic aim should be to resume negotiations, and his country was ready to assist in that endeavour

81. **Mr. Alhakim** (Iraq) said that his delegation reiterated its solidarity with the Palestinian people and with other Arab peoples living under occupation in the Syrian Golan and the occupied Lebanese Shab'a Farms. The international community must put an end to the occupation and compel Israel to implement international law and relevant Security Council resolutions. Nevertheless, the legitimate struggle of the Palestinian people persisted, in order to acquire their freedom and their national rights. The item on Palestine would remain on the General Assembly agenda and his delegation would work with those States that supported the Palestinian question to raise the issue of their oppression at all international and regional forums.

82. **Mr. Qassem Agha** (Syrian Arab Republic) thanked the Special Rapporteur for his courage in discussing the terrorism practiced by the brutal Israeli entity against the Palestinian people. It came as no surprise that it had refused to meet the Special Rapporteur, as that entity did not believe in the culture of peace. It had murdered the United Nations envoy Count Bernadotte in 1948 at the hands of the Stern Gang, led by Yitzhak Shamir. It occupied the Syrian Golan and committed massacres in Lebanon. The illegal occupation supported terrorism in Syria and therefore it could be said that Israel and Islamic State in Iraq and the Levant were two sides of the same coin.

83. **Mr. Moussa** (Egypt) said that the previous week, news outlets had confirmed that draft legislation calling for the formation of a greater Jerusalem municipality would soon go before a ministerial committee for adoption as a Government bill, which would fast-track the legislation's progress. Such a law would threaten the internationally-agreed two-State solution. He asked the Special Rapporteur to explain the possible implications of such a unilateral measure by Israel, and how the international community could compel Israel to abandon it.

84. **Mr. Lynk** (Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967) said that the 1971 finding of the illegality of the South African occupation of Namibia had prompted the international community to limit trade and avoid investment in or recognition of South African rule in Namibia. The General Assembly should take a number of actions, including commissioning a United Nations study on the question of the illegality of the continued occupation of the Palestinian Territories. It should also seek an advisory opinion from the International Court of Justice on that issues, and could sponsor a legal study of the ways in which Member States could ensure respect for international law and fulfil their duty of non-recognition and their duty to investigate or, if need be, prosecute, grave breaches of the Geneva Conventions. Such duties stemmed from common article 1 of the Geneva Conventions of 1949, and article 25 of the Charter of the United Nations on the obligations of

Member States to accept and carry out the decisions of the Security Council. If none of those actions yielded results, the General Assembly should consider the adoption of a Uniting for Peace resolution with respect to the question of Palestine, if it were determined that the occupation was no longer lawful.

85. With respect to the framework of protection if the international community determined that the role of Israel as occupant was no longer lawful, he said that it was clear from the 1971 ruling on the Namibian case that a decision of illegality would not affect the international protection framework such as the Geneva Conventions and other laws relevant to the governance of an occupation. A declaration of illegality would maintain protections for the Palestinians until the occupation came to an end. The international community had a range of diplomatic tools at its disposal, but a study commissioned by the General Assembly might be needed to determine what those were. Those options should be commensurate with the degrees of cooperation that Israel would give if it decided to surrender the occupation and recognize the self-determination of the Palestinian people.

86. Turning to the statement of the representative of Israel, he said that advancing ad hominem attacks instead of addressing the issues raised in the report had never been a helpful approach in either a diplomatic or legal forum. It would have been more conducive to the advancement of the debate and more helpful for the position of Israel itself if the representative had addressed the issues directly. He stood by the issues he had raised and was confident of their legal foundations.

87. Addressing the question of how the settlement enterprise had affected the Palestinians, he said that of all the human rights violations in the occupied territories, settlement activity was perhaps the gravest and most flagrant. It entailed the loss of property, severe restrictions on movement and the development of a Palestinian economy and the pillage of water and other resources. Most of all, however, it entailed a separate and unequal legal and political regime that had no place in the modern world.

88. A number of delegations, including that of Iran, had urged Israel to cooperate with the mandate. Although he had access to excellent reports and had held meetings with Israeli human rights defenders, those resources were no substitute for in-country visits. Israel should therefore rethink its stance of non-cooperation.

89. With respect to the new Jerusalem bill mentioned by the representative of Egypt, he feared it would be a step towards the de facto annexation of some of the settlement blocks in and around Jerusalem. Just as in 1967, when the initial annexation had been disguised under the euphemism of "municipal fusion", the borders of Jerusalem were growing in an attempt to reconfigure the demographic composition of the city. Such a reconfiguration would bring hundreds of thousands of Israeli settlers into the municipality by extending the laws of the municipality to them, a development that should be of great concern to the international community.

The meeting rose at 1.05 p.m.